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THE GENERAL STATUTES OF NORTH CAROLINA OF 1943

Containing the General Laws of North Carolina to and
Including the Legislative Session of 1943

Prepared under Legislative Authority by the Department of Justice
of the State of North Carolina

Completely Annotated, under the Supervision of the Department of
Justice, by the Editorial Staff of the Publishers

UNDER THE DIRECTION OF
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THE GENERAL STATUTES OF
NORTH CAROLINA
OF 1944

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The Constitution of the United States.

Statutes:

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Annotations:


Sources of the annotations to the North Carolina Constitution and General Statutes appearing in this work were:

North Carolina Reports volumes 1-222.
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Federal Reporter 2nd Series volumes 1-134 (p. 416).
Federal Supplement volumes 1-49 (p. 224).
United States Reports volumes 1-317.
Supreme Court Reporter volumes 1-63 (p. 861).
North Carolina Law Review volumes 1-21.

Abbreviations

(The abbreviations below are those found in the General Statutes which refer to prior official codes.)

C. C. P.....Code of Civil Procedure (1868)
C. S.....Consolidated Statutes of North Carolina (1919, 1924)
Code.....The Code of North Carolina (1883)
R. C.....Revised Code of North Carolina (1854)
R. S.....Revised Statutes of North Carolina (1837)
Rev.....Revisal of 1905



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I. Rules of Practice in the Supreme Court and Superior Courts of North Carolina

(1) RULES OF PRACTICE IN THE SUPREME COURT OF NORTH CAROLINA

(These rules were revised and approved at the spring term, 1942, of the Supreme Court of North Carolina.)

Editor's Note to Rules Generally.—The impression seems to prevail among some lawyers that the rules of practice prescribed by the Supreme Court are merely directory, and that they may be disregarded, or at least waived by the consent of parties. Nothing could be further from the truth. The Supreme Court has ample authority to make the rules. Constitution, Art. I, Sec. 8, Art. IV, Sec. 12; G. S. §§ 7-20, 7-21. The rules were passed for the protection of litigants and to hasten the administration of justice. They are mandatory and there is no power, aside from the Supreme Court itself, to change or suspend them. *Washington County v. Norfolk Southern Land Co.*, 222 N. C. 637, 24 S. E. (2d) 338. The legislature has no authority to interfere, and in case of conflict the rules by the court will be observed. See *Cooper v. Comm'rs*, 184 N. C. 615, 113 S. E. 569. Ordinarily where the appellant fails to comply with the rule the court will dismiss the appeal without discussing the merits of the case. *Davis v. Wall*, 142 N. C. 450, 451, 55 S. E. 350.

1-3(c). Obsolete.

These obsolete rules related to licensing by the Supreme Court of applicants to practice law. Admission by examination is now regulated by § 84-24.

4. Appeals—How Docketed

Each appeal shall be docketed from the judicial district to which it properly belongs, and appeals in criminal cases from each district shall be placed at the head of the docket for the district. Appeals in both civil and criminal cases shall be docketed each in its own class, in the order in which they are filed with the clerk.

5. Appeals—When Heard —

The transcript of the record on appeal from a judgment rendered before the commencement of a term of this Court must be docketed at such term fourteen days before entering upon the call of the docket of the district to which it belongs, and stand for argument in its order; if not so docketed, the case shall be continued or dismissed under Rule 17, if the appellee file a proper certificate prior to the docketing of the transcript.

The transcript of the record on appeal from a court in a county in which the court shall be held during the term of this court may be filed at such term or at the next succeeding term. If filed fourteen days before the Court begins the perusal of the docket of the district to which it belongs, it shall be heard in its order; otherwise, if a civil case, it shall be continued, unless by consent it is submitted upon printed argument under Rule 10,

Appeals in criminal cases shall each be heard at the term at which they are docketed, unless for cause or by consent they are continued: Provided, however, that an appeal in a civil case from the First, Second, Third, Eighteenth, Nine-

teenth, Twentieth, and Twenty-first districts which is tried between first day of January and the first Monday in February, or between first day of August and fourth Monday in August, is not required to be docketed at the immediately succeeding term of this Court, though if docketed in time for hearing at said first term, the appeal will stand regularly for argument.

Cross References.—As to dismissal of appeals when not docketed within time required by this rule, see Rule 17 and notes thereto. As to certiorari, see Rule 34 and notes thereto. As to appeals generally, see G. S. § 1-268 et seq. As to requisites of the transcript, see G. S. § 1-284 and notes thereto.

In General.—The rules in regard to the time in which appeals should be docketed have been construed often, and the decisions may be summarized as follows: (1) Appeals in causes tried before the commencement of a term of the Supreme Court must be docketed at such term, fourteen days before the completion of the call of causes from the district to which they belong. (2) If not docketed before the call of causes from that district is concluded, the appellee may docket a certificate under Rule 17, and have the appeal dismissed. (3) If the appellee does not do this, and the appeal is docketed at such term of the Supreme Court which begins next after the trial below, but after the perusal of the district to which it belongs, the appellee can not then move to dismiss. But the appellee's negligence extends no further, and, if the appeal is docketed at a term of the Supreme Court after the one which it is required to be filed, the appeal will be dismissed on motion. (4) Appeals taken from judgments rendered below during the progress of a term of the Supreme Court are not necessarily to be docketed at such term, but are in time if docketed at the first term of the Supreme Court beginning next after the trial below. If, by reason of observance of the statutory time allowed for settling the case on appeal, it is docketed fourteen days before the perusal of the district to which it belongs, at the term of the court which was in progress when the trial below was had, it stands for trial. (5) Appeals in criminal cases, and civil cases submitted upon printed arguments under Rule 10, are heard at the first term, though docketed after the perusal of the district to which they belong. (6) If, by neglect of the judge, clerk, or cause other than neglect of the appellant, the "case on appeal" can not be docketed at the term at which it is required to be filed, it is the duty of the appellant to docket the rest of the transcript and move for a certiorari, or he will lose his appeal. *Porter v. Western, etc.*, R. Co., 106 N. C. 478, 11 S. E. 515. See *Howard v. Speight*, 180 N. C. 653, 104 S. E. 35.

Rules Mandatory.—The rule of Court requiring the docketing of the appeal within a certain time, etc., is mandatory. *State v. National Surety Co.*, 192 N. C. 52, 133 S. E. 172; *State v. Farmer*, 188 N. C. 243, 124 S. E. 562; *Pruitt v. Wood*, 199 N. C. 788, 156 S. E. 126.

The rules of the Supreme Court regulating appeals are mandatory. *Womble v. Moncure Mill, etc.*, Co., 194 N. C. 577, 140 S. E. 230; *Pentuff v. Park*, 195 N. C. 609, 143 S. E. 139. And must be equally observed, or the case will be dismissed. *Covington v. Hanes Hosiery Mills Co.*, 195 N. C. 478, 142 S. E. 705.

Where the record from the general county court is not docketed in the Superior Court within the time prescribed, the appeal is properly dismissed, it being provided by § 7-295 that appeals from the general county court shall be governed by the rules governing appeals from the Superior Courts to the Supreme Court, and dismissal in such circumstances is mandatory under this rule. *Grogg v. Graybeal*, 209 N. C. 575, 184 S. E. 85.

The rules may not be disregarded by the Legislature, the judge of a Superior Court, or by litigants or counsel. The Supreme Court has found it necessary to enforce them uniformly. *Pentuff v. Park*, 195 N. C. 609, 611, 143 S. E. 139.

And Dismissal Results Where Agreement of Parties Prohibits Compliance Therewith.—Where the parties agree upon an extension of time for service of case on appeal that will not permit the docketing of the appeal in the Supreme Court in time to be heard according to the procedure in such instances, they knowingly put it beyond their power to comply with the mandatory provisions of this rule of the procedure, and the case will be dismissed in the Supreme Court when these requirements have not been complied with by the appellant. *Pruitt v. Wood*, 199 N. C. 788, 156 S. E. 126.

Rules 5 and 7 may not be varied, either in criminal or civil cases, under agreement with the solicitor or opposing counsel to extend time to the appellant later than that allowed; and when these requirements for any reason cannot be complied with, the appellant must docket the record proper in the Supreme Court, and apply to the Court for a certiorari. *State v. Trull*, 169 N. C. 363, 85 S. E. 133.

Legislature Cannot Change Rule.—The power of the Legislature to permit an extension of the time for settling the case on appeal, does not permit it to impinge upon the rule of the Supreme Court requiring the docketing thereof, within a prescribed time, or the issuance by the court of a certiorari, in its discretion. *State v. Butner*, 185 N. C. 731, 117 S. E. 163.

Same—Cannot Be Changed by Parties or Trial Judge.—The rules of the Supreme Court regulating the time of docketing appeals are uniformly enforced by the court, without authority to the judges or parties to the action to change them by agreement or otherwise. *Stone v. Ledbetter*, 191 N. C. 777, 133 S. E. 162; *Finch v. Commissioners*, 190 N. C. 154, 129 S. E. 195; *Rose v. Rocky Mount*, 184 N. C. 609, 113 S. E. 506.

With Regard to Appeals, Judgments of Trial Courts Date as of Last Day of Term.—Where the trial term begins before, but is not adjourned until after, the first day of the term of the Supreme Court, appellant need not docket his appeal until the ensuing term of the Supreme Court; the rule that judgments date as of the first day of the term at which they are rendered having no application to appeals, as to which the rule is that judgments date as of the last day of the term. *Davison v. West Oxford Land Co.*, 120 N. C. 259, 26 S. E. 782.

But where the case is tried below since the beginning of a term of the Supreme Court, and the appeal is filed in proper time at such term it stands regularly for argument. *Clegg v. Southern R. Co.*, 132 N. C. 292, 43 S. E. 836, rehearing denied in *Clegg v. Sou. R. Co.*, 133 N. C. 303, 45 S. E. 657; *Avery v. Pritchard*, 106 N. C. 344, 11 S. E. 281.

No Requirement That Term End Ten Days before Supreme Court Term.—There is no requirement, as a prerequisite for perfecting appeals, that the term at which the judgment was rendered should end ten days before the commencement of the term of this Court. The head-note in *Gregory v. Hobbs*, 92 N. C. 39, which so indicates, is misleading. *Avery v. Pritchard*, 106 N. C. 344, 11 S. E. 281.

When Two Districts Called Same Week.—Where cases from two districts are docketed the same week, transcripts from both districts are required to be filed fourteen days before entering upon the call of the docket. *Carroll v. Victory Mfg. Co.*, 180 N. C. 660, 104 S. E. 528.

Case Dismissed for Failure to Docket.—An appeal will be dismissed when the appellant has not docketed it fourteen days before the call of the district, at the first term of the Supreme Court beginning after the trial, and has failed to apply for a certiorari on good cause shown. *State v. Brown*, 183 N. C. 789, 111 S. E. 780; *Mimms v. Seaboard Air Line R. Co.*, 183 N. C. 436, 111 S. E. 778; *State v. Ward*, 180 N. C. 693, 104 S. E. 531.

It will be dismissed on motion, notwithstanding the appellee did not docket the certificate and dismiss the appeal, as he might have done under Rule 17. *Hinton v. Pritchard*, 108 N. C. 412, 12 S. E. 838; *Corbett Buggy Co. v. McLamb*, 182 N. C. 762, 108 S. E. 344; *Stone v. Ledbetter*, 191 N. C. 777, 133 S. E. 162.

Cannot Be Docketed Next Term.—When an appeal is not docketed in accordance with this Rule it is too late to do so at a subsequent term of the Court. *Hewitt v. Beck*, 152 N. C. 757, 67 S. E. 586.

May Be Dismissed During Term.—Where the appellant failed to have his appeal docketed at the proper term, it may be dismissed at the call of the district to which it be-

longed, or at any time thereafter during that term. *McNeil v. Virginia-Carolina R. Co.*, 173 N. C. 729, 92 S. E. 484.

Agreements of Counsel.—The requirement of this section will be enforced uniformly regardless of an agreement to the contrary that the attorneys for the parties may have made in any particular case. *State v. Farmer*, 188 N. C. 243, 124 S. E. 562. Formerly the rule was contra. *Morrison v. Craven*, 120 N. C. 327, 26 S. E. 940.

Neglect of Attorney.—In one case where a farmer employed an attorney to attend to an appeal in the Supreme Court but the attorney failed to have the record printed, and the appeal was dismissed, it was held a case of excusable negligence on the client's part, and that the appeal should be reinstated. *Wiley v. Logan*, 94 N. C. 564.

But later cases hold the negligence of counsel sending up, docketing, and printing the transcript is that of the client. *Truelove v. Norris*, 152 N. C. 755, 67 S. E. 487; *Howard v. Speight*, 180 N. C. 653, 104 S. E. 35. See also *Carroll v. Victory Mfg. Co.*, 180 N. C. 660, 104 S. E. 528; *Kear v. Drake*, 182 N. C. 764, 108 S. E. 393.

Failure to Docket.—The motion for a certiorari in the Supreme Court by appellant who has failed to docket his case in time under the requirements of this section may be allowed, in the discretion of the court, upon the docketing of the record proper and the showing as required for merit and want of laches. *State v. Taylor*, 194 N. C. 738, 140 S. E. 728.

Failure to Docket Entire Record.—Though the court, without appellant's fault, fails to settle the case, appellant must within the time allowed by this section docket all of the record proper, or so much thereof as he can obtain, and file an affidavit as to why the entire record cannot be docketed; otherwise the appeal will be dismissed. *Caudle v. Morris*, 158 N. C. 594, 74 S. E. 98.

When Appellant Files Original Papers.—Where the appellant failed to file a transcript of the record, but attempted to file the original papers from the trial court, his motion for reinstatement after dismissal of appeal will be denied for laches. *Lindsey v. Knights of Honor*, 172 N. C. 818, 90 S. E. 1013.

Transcript Mailed in Time.—Where the transcript of a record is deposited in the postoffice in ample time to reach the Supreme Court within the time required by this section, but by some delay in the mails does not reach its destination until after the time has expired the excuse is reasonable, and the appeal will not be dismissed. *Walker v. Scott*, 104 N. C. 481, 10 S. E. 523.

Fees Must Be Paid before Transcript Docketed.—The clerk of the Supreme Court is not required to docket a transcript of an appeal before appellant has paid him the required fee therefor. *Dunn v. Clerk's Office*, 176 N. C. 50, 96 S. E. 738. But see *West v. Reynolds*, 94 N. C. 333. See G. S. § 6-34 and notes thereto.

Same—Failure to Pay Costs.—Where a transcript is not sent up in time by reason of the appellant's failure, when notified, to pay costs of the transcript, as he is bound to do, the appellee may move to docket and dismiss the appeal. *Bailey v. Brown*, 105 N. C. 127, 10 S. E. 1054.

Negotiations for Compromise of Action.—The fact that, on an appeal, negotiations for compromise were pending, is no excuse for failure to docket the appeal. *British, etc., Mortg. Co. v. Long*, 116 N. C. 77, 20 S. E. 964.

Delay of Clerk.—Failure to docket the transcript on appeal within the time required by this rule can not be excused by delay of the clerk, in which case appellant should docket the title of the case with affidavit as to the cause of delay. *Carroll v. Victory Mfg. Co.*, 180 N. C. 660, 104 S. E. 528.

It is no sufficient excuse for the appellant's failure to docket his appeal under this Rule that the case was delayed in being settled and that the clerk was too busy with a term of court to make out the transcript. *Hewitt v. Beck*, 152 N. C. 757, 67 S. E. 586.

The mere fact that appellant tendered payment to the Superior Court Clerk of his fees for transcript on appeal, and the clerk said he would send up the transcript without payment is no sufficient legal excuse for the failure to docket under this Rule. *Truelove v. Norris*, 152 N. C. 755, 67 S. E. 487.

Case Not Settled.—It is no excuse for failure to docket the appeal that the case on appeal was not settled by the judge until too late to docket the case at the proper term it being appellant's duty to docket the record proper and ask for a writ of certiorari to perfect the transcript. *Kerr v. Drake*, 182 N. C. 764, 108 S. E. 393; *State v. Telfair*, 139 N. C. 555, 51 S. E. 911; *Pittman v. Kimberly*, 92 N. C. 562.

When Prisoner Has Fled State.—Upon the failure of ap-

pellant to docket his appeal from the conviction of a capital felony, within the time prescribed, it will be docketed and dismissed unless a motion is made for a certiorari at the next succeeding term, and sufficient cause shown for the failure to docket in time; and the fact that he had fled the state and remained absent until arrested and brought back entitles him to no special favor. *State v. Dalton*, 185 N. C. 606, 115 S. E. 881; *State v. Devane*, 166 N. C. 281, 81 S. E. 293.

Docketing Removes Case from Litigants' Control.—When the case on appeal has been agreed upon by the parties and at the request of either party the clerk of the superior court has sent it up to the clerk of the Supreme Court and there docketed promptly, and in time for argument of the call of the district under the rule of court, though otherwise the case would not then have stood for argument, it being thus docketed takes it from the control of the parties litigant, and the hearing will accordingly be regularly heard as placed. *Carswell v. Talley*, 192 N. C. 37, 133 S. E. 181.

Abandonment.—The part of this rule allowing the convicted defendant to abandon his appeal in a criminal action in the court below, commented upon. *State v. Taylor*, 194 N. C. 738, 140 S. E. 728.

Trial Court May Adjudge Appeal Abandoned.—When the appellant does not docket his transcript on appeal in the Supreme Court, the trial judge may adjudge the appeal abandoned and proceed as if no appeal had been taken. *Cline v. Bryson City Mfg. Co.*, 116 N. C. 837, 21 S. E. 791. When, however, it is doubtful whether an appeal lies, it is best that the court below should await the action of the Supreme Court. *Dunn v. Marks*, 141 N. C. 232, 53 S. E. 845; *Avery v. Pritchard*, 93 N. C. 266.

Where appellant has failed to docket the record on appeal and no writ of certiorari has been allowed in the Supreme Court, the court below may adjudge, upon proper notice, upon proof of such facts, that the appeal has been abandoned. *Pruitt v. Wood*, 199 N. C. 788, 156 S. E. 126.

Renewing of Withdrawn Appeal.—A party to an action has a right to renew his appeal after having once withdrawn it, provided he does so within the time prescribed by the statutes and rules for perfecting appeals. *State v. Chastain*, 104 N. C. 900, 10 S. E. 519.

Case Is Dismissed If Moot Question Presented.—Where on appeal it appears that an election sought to be enjoined has already been held, the appeal presents only a moot question, and will be dismissed. *Rousseau v. Bullis*, 201 N. C. 12, 158 S. E. 553.

Applied in *Vivian v. Mitchell*, 144 N. C. 472, 57 S. E. 167; *Cozart v. Assurance Co.*, 142 N. C. 522, 53 S. E. 411; *Barber v. Justice*, 138 N. C. 20, 50 S. E. 445; *Parker v. Southern Ry. Co.*, 121 N. C. 501, 28 S. E. 347; *Officers v. Bland*, 90 N. C. 6.

6. Appeals—Criminal Actions.

Appeals in criminal cases, docketed fourteen days before the call of the docket for their districts, shall be heard before the appeals in civil cases from said districts. Criminal appeals docketed after the time above stated shall be called immediately at the close of argument of appeals from the Eleventh District, unless for cause otherwise ordered, and shall have priority over civil cases placed at the end of the docket.

Cross Reference.—As to appeals in criminal actions generally, see G. S. § 15-177 et seq. and notes thereto.

Editor's Note.—The rules for the docketing of criminal appeals are the same, and will be enforced as rigidly, as in civil appeals. See *State v. O'Kelly*, 88 N. C. 609. And see notes to the preceding section.

Case Dismissed If Appeal Abandoned.—When the defendant in a criminal action appeals to the Supreme Court, but, pending appeal, breaks jail and flees the jurisdiction of the court, this is an abandonment of the appeal; and, upon motion of the Attorney-General, the appeal will be dismissed, or case continued, or judgment affirmed, in the discretion of the Court. *State v. Keebler*, 145 N. C. 560, 59 S. E. 872, following *State v. Jacobs*, 107 N. C. 772, 11 S. E. 962, 22 Am. St. Rep. 912.

(1) **Appeal Bond.**—If a justified appeal bond (except in pauper appeals) is not filed with the transcript, as required by § 1-286, General Statutes, the appeal will be dismissed.

Cross References.—As to the appeal bond, see G. S. § 1-

285 et seq. As to costs on appeal, generally, see G. S. § 6-33 et seq.

(2) **Pauper Appeals.**—See Rule 22 and notes thereto.

(3) **When Appeal Abates.**—See Rule 37.

(4) **Appeal Dismissed if Transcript Not Printed or Mimeographed.**—See Rule 24 and notes thereto.

7. Call of Judicial Districts — A

Appeals from the several districts will be called for hearing in the following order:

From the First, Twentieth, and Twenty-first Districts, the first week of the term.

From the Second and Nineteenth Districts, the second week of the term.

From the Third and Eighteenth Districts, the fourth week of the term.

From the Fourth and Seventeenth Districts, the fifth week of the term.

From the Fifth and Sixteenth Districts, the seventh week of the term.

From the Sixth and Fifteenth Districts, the eighth week of the term.

From the Seventh District, the tenth week of the term.

From the Fourteenth District, the eleventh week of the term.

From the Eighth and Thirteenth Districts, the thirteenth week of the term.

From the Ninth and Twelfth Districts, the fourteenth week of the term.

From the Tenth and Eleventh Districts, the sixteenth week of the term.

In making up the calendar for the two districts allotted to the same week, the appeals will be docketed in the order in which they are received by the clerk, but only those from the district first named will be called on Tuesday of the week to which the district is allotted, and those from the district last named will not be called before Wednesday of said week, but appeals from the district last named must nevertheless be docketed not later than 14 days preceding the call for the week.

Cross Reference.—See Rule 9.

Applied in *State v. Edwards*, 205 N. C. 443, 171 S. E. 608.

8. End of Docket

At the Spring Term, causes not reached and disposed of during the period allotted to each district, and those for any other cause put to the foot of the docket, shall be called at the close of argument of appeals from the Eleventh District, and each cause, in its order, tried or continued, subject to Rule 6.

At the Fall Term, appeals in criminal cases only will be heard at the end of the docket, unless the Court for special reason shall set a civil appeal to be heard at the end of the docket at that term. At either term the Court in its discretion may place cases not reached on the call of a district at the end of some other district.

Cross Reference.—As to terms of the Supreme Court, see G. S. § 7-7.

9. Call of Docket

Each appeal shall be called in its proper order. If any party shall not be ready, the cause, if a civil action, may be put to the foot of the district, by the consent of the counsel appearing, or for cause

shown, and be again called when reached, if the docket shall be called a second time; otherwise, the first call shall be peremptory; or at the first term of the Court in the year a cause may, by consent of the Court, be put to the foot of the docket; if no counsel appear for either party at the first call, it will be put to the end of the district, unless a printed brief is filed by one of the parties; and if none appear at the second call, it will be continued, unless the Court shall otherwise direct. Appeals in criminal actions will be called peremptorily for argument on the first call of the docket, unless for good cause assigned.

Cross Reference.—As to call of judicial districts, see Rule 7.

Counsel Must Attend All Week.—The Supreme Court has no daily calendar, and counsel must attend during the week for which the case is set under our rules. *Lunsford v. Alexander*, 162 N. C. 528, 78 S. E. 275.

10. Submission on Printed Arguments

By consent of counsel, any case may be submitted without oral argument, upon printed briefs by both sides, without regard to the number of the case on the docket, or date of docketing the appeal. Such consent must be signed by counsel of both parties and filed, and the clerk shall make a note thereof on the docket; but the Court, notwithstanding, may direct an oral argument to be made, if it shall deem best.

An appeal submitted under this rule must be docketed before the call of appeals from the Ninth District has been entered upon, unless it appears to the Court from the record that there has been no delay in docketing the appeal, and that it has been docketed as soon as practicable, and that public interest requires a speedy hearing of the case.

(Note—A compliance with this rule does not require a formal motion, but merely the filing with the printed record and briefs an agreement signed by counsel for both sides, that the case may be considered without oral argument.)

Necessity of Brief.—A case can not be submitted in Supreme Court without oral argument unless a printed argument or brief for each party is filed. *Mills v. Guaranty Co.*, 136 N. C. 255, 48 S. E. 652.

11. Briefs Not Received After Argument

When the case is argued orally on the regular call of the docket, in behalf of only one of the parties, no printed argument for the other party will be received, unless it is filed before the oral argument begins. No brief or argument will be received after a case has been argued or submitted, except upon leave granted in open court, after notice to opposing counsel.

12. Briefs Regarded as Personal Appearance

When a case is reached on the regular call of the docket, and a printed brief or argument shall be filed for either party, the case shall stand on the same footing as if there were a personal appearance by counsel.

Opposition to Continuance.—The party filing a printed brief is to be taken as asking a decision at such term, and as opposing a continuance, and a motion by the opposite party to continue the case till next term will not be granted unless expressly assented to or for good cause shown. *Dibrell v. Georgia Home Ins. Co.*, 109 N. C. 314, 13 S. E. 739.

13. When Case May Be Heard Out of Order

In cases where the State is concerned, involv-

ing or affecting some matter of general public interest, the Court may, upon motion of the Attorney-General, assign an earlier place on the calendar, or fix a day for the argument thereof, which shall take precedence of other business. And the Court, at the instance of a party to a cause that directly involves the right to a public office, or at the instance of a party arrested in civil action who is in jail by reason of inability to give bond or from refusal of the court to discharge him, or in other cases of sufficient importance, in its judgment, may make the like assignment in respect to it.

Title to Public Office.—Where an action involving title to public office is begun after the term of the Supreme Court, and on appeal has come to such term of the Supreme Court after the call of the district to which the cause belongs, the court can, under this rule, set the same down for argument, though it was not entitled to be heard as of right. *Caldwell v. Wilson*, 121 N. C. 423, 28 S. E. 363.

Enjoining Issue of County Bonds.—An injunction suit to restrain a county from issuing bonds for the payment of certain county indebtedness will not be advanced for hearing because a certain portion of such indebtedness is due to the board of education for borrowed money. *Black v. Commissioners*, 129 N. C. 121, 39 S. E. 818.

14. When Cases May Be Heard Together

Two or more cases involving the same question may, by order of the Court, be heard together, but they must be argued as one case, the Court directing, when the counsel disagree, the course of argument.

15. Appeal Dismissed if Not Prosecuted

Cases not prosecuted for two terms shall, when reached in order at the third term, be dismissed at the cost of appellant, unless the same, for sufficient cause, shall be continued. When so dismissed, the appellant may, at any time thereafter not later than during the week allotted to the district to which it belongs at the next succeeding term, move to have the same reinstated, on notice to the appellee and showing sufficient cause.

Cross References.—As to when appeals will be dismissed, see note to G. S. § 1-284, analysis line IV, B. As to judgment on appeal generally, see G. S. § 1-297 and notes thereto.

Dismissal of Appeal.—Failure to prosecute an appeal for two terms, is sufficient ground for dismissal, unless, for sufficient cause shown, the case shall be continued. The motion to reinstate, upon notice, may be heard not later than the next term. *Wiseman v. Commissioners*, 104 N. C. 330, 10 S. E. 481; *Brantley v. Jordan*, 92 N. C. 291. See, also, *Briggs v. Jernis*, 98 N. C. 454, 4 S. E. 631.

Sickness of Attorney.—Where an appeal after being on the docket for two terms was dismissed, when reached in its order at the third term, for want of prosecution, it will not be reinstated on appellant's affidavit that his attorney was sick, it not appearing that the appellant made any inquiry of his attorney regarding the appeal or sought to get other counsel to prosecute it. *Martin v. Chambers*, 116 N. C. 673, 21 S. E. 402.

When Cause Remanded.—An appeal from the conviction in a criminal case will be docketed and dismissed on motion of the Attorney-General when not prosecuted as required by the Rules of Court, but the record will be examined for errors appearing upon its face, and where it so appears that the defendant was convicted without a trial by jury after he had entered a plea of "not guilty," the cause will be remanded to the Superior Court for trial according to law. *State v. Straughn*, 197 N. C. 691, 130 S. E. 330.

16. Motion to Dismiss Appeal—When Made

A motion to dismiss an appeal for noncompliance with the requirements of the statute in perfecting an appeal must be made at or before en-

tering upon the trial of the appeal upon its merits, and such motion will be allowed unless such compliance be shown in the record, or a waiver thereof appear therein, or such compliance is dispensed with by a writing signed by the appellee or his counsel, to that effect, or unless the Court shall allow appropriate amendments.

See notes to the succeeding section.

Although the statement of case on appeal is subject to the plea of "nul tiel record," the Supreme Court will examine it, and upon the absence of reversible error appearing therein or on the face of the record proper, the judgment will be affirmed and the appeal dismissed. *State v. Goldston*, 201 N. C. 89, 158 S. E. 926.

17. Appeal Dismissed for Failure to Docket in Time — A

If the appellant in a civil action, or the defendant in a criminal prosecution, shall fail to bring up and file a transcript of the record fourteen days before the Court begins the call of cases from the district from which it comes at the term of this Court at which such transcript is required to be filed, the appellee may file with the clerk of this Court the certificate of the clerk of the court from which the appeal comes, showing the names of the parties thereto, the time when the judgment and appeal were taken, the name of the appellant, and the date of the settling of the case on appeal, if any has been settled, with his motion to docket and dismiss at appellant's cost said appeal, which motion shall be allowed at the first session of the Court thereafter, with leave to the appellant, during the term, and after notice to the appellee, to apply for the redocketing of the cause: Provided, that such motion of appellee to docket and dismiss the appeal will not be considered unless the appellee, before making the motion to dismiss, has paid the clerk of this Court the fee charged by the statute for docketing an appeal, the fee for drawing and entering judgment, and the determination fee, execution for such amount to issue in favor of appellee against appellant.

Cross References.—As to the time within which the record must be docketed, see Rule 5. As to certiorari as a substitute for appeal, see Rule 34 and notes thereto.

Right of Appellee.—When the appellant does not docket his appeal before the perusal of the docket of the district to which it belongs, the appellee, upon filing the certificate required by this section, is entitled, upon motion, to have the appeal docketed and dismissed. *Rose v. Shaw*, 105 N. C. 126, 10 S. E. 1055.

It is not discretionary with the Supreme Court to refuse to dismiss an appeal where appellant has failed to docket the case within the time required by rule 5, but such refusal can only be based on sufficient legal excuse for the delay. *Carroll v. Victory Mfg. Co.*, 180 N. C. 660, 104 S. E. 528; *Hewitt v. Beck*, 152 N. C. 757, 67 S. E. 586.

An appeal from the conviction of a capital felony, will be docketed and dismissed on motion of the Attorney-General when not prosecuted as required by the rules of Court regulating such matters, after an examination of the record for errors appearing on its face. *State v. Taylor*, 194 N. C. 738, 140 S. E. 728; *S. v. Thomas*, 195 N. C. 458, 142 S. E. 474; *State v. Clyburn*, 195 N. C. 618, 143 S. E. 129; *State v. Newsome*, 196 N. C. 16, 144 S. E. 300; *State v. Sentell*, 208 N. C. 140, 179 S. E. 456; *State v. Young*, 216 N. C. 626, 5 S. E. (2d) 847; *State v. Day*, 215 N. C. 566, 2 S. E. (2d) 569; *State v. Mayes*, 216 N. C. 542, 5 S. E. (2d) 722; *State v. Moore*, 216 N. C. 543, 5 S. E. (2d) 719; *State v. Mitchell*, 216 N. C. 544, 5 S. E. (2d) 723; *State v. Morrow*, 220 N. C. 441, 17 S. E. (2d) 507; *State v. Blue*, 221 N. C. 36, 18 S. E. (2d) 697; *State v. Wilfong*, 222 N. C. 746, 24 S. E. (2d) 629.

Appellee Must Obey Rules.—A motion to dismiss an appeal, upon the ground that the appellant did not cause the

same to be docketed in accordance with rule 5 will not be granted, where it appears that the appellee has also failed to comply with its requirements. One who seeks benefit under the rule must himself observe it. *Barbee v. Green*, 91 N. C. 158.

When Motion May Be Made.—A motion to docket and dismiss an appeal may be made at the beginning of the call of the district to which it belongs, or at any time thereafter during the term. In *re Burwell's Will*, 123 N. C. 125, 31 S. E. 382.

A motion to dismiss an appeal in the Supreme Court for failure of appellant to docket in the time required is in apt time when it is made during the term of court to which the appeal is returnable, and before the case is docketed. *Standard Mirror Co. v. Philadelphia Casualty Co.*, 157 N. C. 28, 72 S. E. 826.

Same—Need Not Be at First Opportunity.—A motion by the appellee to docket and dismiss made before the docketing of the transcript, though not at the first opportunity, will be allowed. *Worth v. Wilmington*, 131 N. C. 532, 42 S. E. 964.

Appellant Not Entitled to Notice.—An appellee entitled to move for the dismissal of an appeal because of appellants' failure to file transcript of record within the required time, is not required to give appellants notice of such motion. *Kerr v. Drake*, 182 N. C. 764, 108 S. E. 393; *Johnston v. Whitehead*, 109 N. C. 207, 13 S. E. 731.

Laches of Appellant.—Where the appellant was guilty of laches for putting off his application for the transcript of record until just before the time when it should have been sent up for hearing, and further when the clerk delayed in making out the transcript, he did not take steps to have it made out himself and certified by the clerk, the motion to dismiss under this rule will be granted. *Johnson v. Covington*, 178 N. C. 658, 100 S. E. 881.

Case Docketed before Motion to Dismiss.—Though an appeal is not docketed fourteen days before the call of the district to which it belongs, it will not be dismissed (when docketed at the next term hereafter the trial below) if it is docketed before the motion is made to dismiss. *McLean v. McDonald*, 175 N. C. 418, 95 S. E. 769; *Gupton v. Sledge*, 161 N. C. 213, 76 S. E. 527; *Standard Mirror Co. v. Philadelphia Casualty Co.*, 157 N. C. 28, 72 S. E. 826. See, also, *Janey v. Mackey*, 144 N. C. 630, 57 S. E. 386; *Benedict v. Jones*, 131 N. C. 473, 42 S. E. 909.

Same—Applies to First District.—The rule that though an appeal is not docketed fourteen days before the call of the district to which it belongs, it will not be dismissed (when docketed at the next term hereafter the trial below) if it is docketed before the motion is made to dismiss, applies to the first as well as the other districts, as the appellee can file his motion to dismiss with the clerk whether the court is in session or not. *Cradlock v. Barnes*, 140 N. C. 427, 53 S. E. 239.

Failure to Make Motion No Waiver.—This rule applies only to that term of the Supreme Court next ensuing the trial; and where the appellant has docketed his case after that term the case will, on motion, be dismissed at the following term of the Supreme Court, and the failure of the appellee to have previously moved to dismiss is not a waiver of his right. *Howard v. Speight*, 180 N. C. 653, 104 S. E. 35.

Necessity of Clerk's Certificate.—A motion to dismiss an appeal for appellant's failure to file the transcript fourteen days before entering on the call of the docket as required by rule 5, where not accompanied by the certificate of the clerk of court as required by this rule, is defective. *Mitchell v. Melton*, 178 N. C. 87, 100 S. E. 124.

Certificate Need Not Be Duplicated.—Where the appellant has filed a certificate of the clerk below that the case has been tried there, giving the names of the parties, and unsuccessfully applied for a certiorari in the Supreme Court, it is not necessary to appellee's motion to dismiss, that he should duplicate the certificate. *Lindsay v. Knights of Honor*, 172 N. C. 818, 90 S. E. 1013.

Duty of Clerk Where Judgment Stayed but Appeal Not Docketed.—Even though execution of the judgment is stayed, unless the defendant shall proceed further and docket the appeal within the time prescribed by Rule 5, the clerk of the Superior Court wherein the case is tried should certify the facts to the Attorney-General of the State, to the end that he may move to docket and dismiss the appeal under this rule. *State v. Watson*, 208 N. C. 70, 71, 179 S. E. 455.

Clerk Cannot Refuse to Sign Certificate.—Where the transcript of appeal was not docketed in the time required, and the appellee prepared the certificate required by this rule, for motion to dismiss, and forwarded it to the clerk of the

trial court, with a request that he sign the same, the clerk had no right to decline to sign and return the certificate because plaintiff's counsel had two weeks previously paid him \$20 on account for the making out of a transcript and requested that he prepare the same. *Johnson v. Covington*, 178 N. C. 658, 100 S. E. 881.

Case on Appeal Unnecessary.—A motion to docket and dismiss an appeal will be allowed, where no transcript has been docketed, and no case on appeal is necessary to entitle appellee to such dismissal. *Fowle & Son v. Mitchell*, 149 N. C. 581, 62 S. E. 311.

Time of Stating Excuse.—Where a motion to docket and dismiss an appeal is made by appellee, for appellant's failure to docket the case, excuses for failure to docket should be then made. *British, etc., Mortg., Co. v. Long*, 116 N. C. 77, 20 S. E. 964; *McNeil v. Virginia-Carolina R. Co.*, 173 N. C. 729, 92 S. E. 484.

Agreement of Parties.—Where the parties have entered into a written agreement or an oral agreement not denied, that the appellee will not move to dismiss under this section the court will uphold the agreement and a motion to dismiss will be denied. See *McNeil v. Virginia-Carolina R. Co.*, 173 N. C. 729, 92 S. E. 484 and cases there cited.

When Appellant Has Abandoned Appeal.—When it appeared from the record on file in the Supreme Court, that the appellant had abandoned his appeal below, no motion to dismiss was necessary, and it will therefore be disallowed. *Standard Mirror Co. v. Philadelphia Casualty Co.*, 157 N. C. 28, 72 S. E. 826.

Requisites of Motion to Reinstate.—A motion to reinstate an appeal dismissed for failure to docket the record at the first term of this Court after the trial below, is fatally defective where it does not show that the delay was without laches on the part of the appellant. *Pipkin v. Green*, 112 N. C. 355, 17 S. E. 534.

Where an appeal has been dismissed under this rule, the appellant, applying for a reinstatement upon the ground that the trial judge has failed to settle the case, must show that he has had his record properly docketed in this court, as required by the rules, or his motion will be denied. *Caudle v. Morris*, 158 N. C. 594, 74 S. E. 98.

Same—Motion Based on Same Grounds as Dismissed.—A motion to reinstate a case on appeal must be denied when based on the same grounds upon which it was properly dismissed. *McDowell v. Kent*, 153 N. C. 555, 69 S. E. 626.

Same—Based on Absence of Counsel.—Where an appeal has been dismissed for failure to docket the transcript on appeal in proper time, it will not be reinstated upon the ground that appellant's counsel was prevented from appearing to settle the case before the trial judge, on the days designated for the purpose, by other urgent business of his client, the appellant, requiring his presence elsewhere. *Parker v. Southern Ry. Co.*, 121 N. C. 501, 28 S. E. 347.

Applied in *Barbee v. Green*, 91 N. C. 158; *Avery v. Pritchard*, 106 N. C. 344, 11 S. E. 281; *Porter v. Western, etc., R. Co.*, 106 N. C. 478, 11 S. E. 515; *Rollins v. Love*, 97 N. C. 210, 2 S. E. 166; *Bailey v. Brown*, 105 N. C. 127, 10 S. E. 1054; *Hinton v. Pritchard*, 108 N. C. 412, 12 S. E. 838; *Graham v. Edwards*, 114 N. C. 228, 19 S. E. 150; *Truelove v. Norris*, 152 N. C. 755, 67 S. E. 487; *Rosemond v. McParrson*, 156 N. C. 593, 72 S. E. 570; *Jordan v. Simmons*, 175 N. C. 537, 95 S. E. 919; *State v. Williams*, 216 N. C. 740, 6 S. E. (2d) 492; *State v. Page*, 217 N. C. 288, 7 S. E. (2d) 559; *State v. Flynn*, 217 N. C. 345, 7 S. E. (2d) 700; *State v. Gibson*, 217 N. C. 563, 8 S. E. (2d) 804.

Cited in *State v. Baldwin*, 221 N. C. 471, 20 S. E. (2d) 298.

(1) Appeal Docketed by Appellee When Frivolous and Taken for Purposes of Delay. The transcript of an appeal which is obviously frivolous and appears to have been taken only for purposes of delay, may be docketed in this Court by appellee before the time required by Rule 5, and if it appears to the Court that the appellee's contention is correct, the appeal will be dismissed at cost of appellant.

(Note—Motion made under this rule is not effectual if filed after appeal has been docketed, although appeal was docketed after time required by Rule 5.)

Cross Reference.—As to appeals the Supreme Court will consider, see analysis line II, C. of notes to G. S. § 1-277.

Frivolous Appeal Dismissed.—While ordinarily an appeal lies to the Supreme from the Superior Court as a matter of

right, it is required that it must be bona fide for the purpose of reviewing some alleged error; and when from the record it appears that the appeal is frivolous and made solely for delay, it will, upon due notice to the appellant, be dismissed upon appellee's motion. *Ludwick v. Unwarra Min. Co.*, 171 N. C. 60, 87 S. E. 949; *Blount v. Jones*, 175 N. C. 708, 95 S. E. 541; *Headman v. Commissioners*, 177 N. C. 261, 98 S. E. 776; *Ross v. Robinson*, 185 N. C. 548, 118 S. E. 4.

Instant Relief for Appellee.—Where the appellee has moved to dismiss the appeal, showing that appellant's defense was frivolous and only for advantages to be gained by delay to the appellee's loss, and that the appellant had lost the right to have the case settled on appeal for the Supreme Court, and his answer to the motion is also frivolous, the Supreme Court will affirm the judgment in appellee's favor rendered in the trial court, and order the judgment to be certified down instantler to afford the appellee relief from the appellant's abuse of the court's process and procedure. *Selwyn Hotel Co. v. Griffin*, 182 N. C. 539, 109 S. E. 371.

18. Appeal Docketed and Dismissed Not to Be Reinstated Until Appellant Has Paid Costs

When an appeal is dismissed by reason of the failure of the appellant to bring up a transcript of the record, and the same, or a certificate for that purpose, as allowed by Rule 17, is procured by appellee, and the case dismissed, no order shall be made setting aside the dismissal or allowing the appeal to be reinstated, even though the appellant may be otherwise entitled to such order, until the appellant shall have paid or offered to pay the costs of the appellee in procuring the certificate and in causing the same to be docketed.

Cross References.—As to costs on appeal generally, see G. S. § 6-33, et seq. As to undertaking required on appeal, see G. S. § 1-285 et seq.

19. Transcripts

(1) What to Contain and How Arranged. In every transcript record of an action brought to this Court, the proceedings shall be set forth in the order of time in which they occurred, and the several processes, orders, and every document constituting the transcript shall be identified by a proper title or heading, and shall be arranged to follow each other in the order the same took place, when practicable. The pages shall be numbered, and on the front page of the record there shall be an index in the following or some equivalent form:

	Page
Summons—date	1
Complaint—first cause of action	2
Complaint—second cause of action ..	3
Affidavit for attachment, etc.	4

It shall not be necessary to send as a part of the transcript, affidavits, orders and other processes and proceedings in the action not involved in the appeal and not necessary to an understanding of the exceptions relied on. Counsel may sign an agreement which shall be made a part of the record as to the parts to be transcribed, and in the event of disagreement of counsel the judge of the Superior Court shall designate the same by written order: Provided, that the pleadings on which the case is tried, the issues, and the judgment appealed from shall be a part of the transcript in all cases: Provided, further, that this rule is subject to the power of this Court to order additional papers and parts of the record to be sent up.

Cross Reference.—As to contents of case on appeal, see G. S. §§ 1-282, 1-283 and notes thereto.

Editor's Note.—The transcript is necessary to give the Supreme Court jurisdiction of a case, see notes to § 1-284, analysis line 1.

Pleadings, Issues and Judgment a Part of Record.—The rules of practice in the Supreme Court require among other things that the pleadings, issues and judgment shall be a part of the record proper, and this appeal, the record not including the summons or complaint, and the Court, consequently, not being informed as to the nature of the action, is dismissed. *Waters v. Waters*, 199 N. C. 667, 155 S. E. 564. See *Goodman v. Goodman*, 208 N. C. 416, 181 S. E. 328; *Washington County v. Norfolk Southern Land Co.*, 222 N. C. 637, 24 S. E. (2d) 338.

Where the pleadings and the referee's report have been omitted from the record, the appeal must be dismissed as not conforming to subsec. (1) of this rule. *Payne v. Brown*, 205 N. C. 785, 786, 172 S. E. 348.

The pleadings are a necessary part of the record proper upon appeal, and where the pleadings are omitted from the record, the appeal must be dismissed. *State v. Ravensford Lbr. Co.*, 207 N. C. 47, 175 S. E. 713.

Jurisdiction of Trial Court Should Appear.—In order to sustain an appeal to the Supreme Court it is essential that the jurisdiction of the trial court should be made to appear. *State v. Patterson*, 222 N. C. 179, 180, 22 S. E. (2d) 267.

Submission of Controversy without Action.—Upon appeal from judgment entered in a submission of controversy without action, the agreed facts with the required affidavits are necessary parts of the record proper. *Consolidated Realty Corp. v. Koon*, 215 N. C. 495, 2 S. E. (2d) 360.

Dismissal of Appeal.—The case on appeal to the Supreme Court will be dismissed when the transcript does not conform to the rules of Court regulating appeals. *Bridgers v. Griffin*, 195 N. C. 862, 142 S. E. 221.

Under Rule 19, section 1, the complaint is a necessary part of the record proper, and when it is not contained therein, the case on appeal will be dismissed. *Schwarberg v. Howard*, 197 N. C. 126, 147 S. E. 741; *Plott Co. v. Ferguson Const. Co.*, 198 N. C. 782, 153 S. E. 396.

Where on appeal the record contains only a synopsis of the complaint the appeal will be dismissed. *Plott Co. v. Ferguson Const. Co.*, 198 N. C. 782, 153 S. E. 396.

Where the record does not show either the organization of the court below or the authority of the special judge who signed the judgment, nor disclose that the judgment was entered at term, the appeal is dismissible under this rule. *Vail v. Stone*, 222 N. C. 431, 23 S. E. (2d) 329.

Purpose of Rule.—It is the duty of the courts to prevent the imposition by either party of unnecessary costs upon the other. It is for the reason that this rule designates what matter is unnecessary to be sent up, and prescribes that the evidence on appeal shall be set out in narrative form. *Waldo v. Wilson*, 177 N. C. 461, 463, 100 S. E. 182.

Failure to Index.—Appeals will be dismissed where no index is sent up in the record and printed and no marginal references prepared. *Kearnes v. Gray*, 173 N. C. 717, 92 S. E. 149; *Sigman v. Sou. Railroad Co.*, 135 N. C. 181, 47 S. E. 420. See, also, *Pretzfelder v. Merchants Ins. Co.*, 123 N. C. 164, 31 S. E. 470; *Alexander v. Alexander*, 120 N. C. 472, 27 S. E. 121.

An index of exhibits solely by the alphabetical designation of such exhibits does not comply with this Rule of Practice. *Millwood v. Firestone Cotton Mills*, 215 N. C. 519, 2 S. E. (2d) 560.

Proceedings Not Set Forth in Regular Order.—Where the transcript does not set forth the proceedings in the order of time which they occur, and the record shows no error warranting an order for a new trial, the appeal will be dismissed on motion. *Hobbs v. Cashwell*, 158 N. C. 597, 74 S. E. 23.

Transcript of Indictment Must Appear in Record.—Where an appeal is taken to the refusal of the trial court to quash an indictment, it is the duty of the appellant to see that a transcript of the indictment appears in the record; and when it does not so appear he should apply to the Superior Court to supply it, if one convenes in time; and if not, he should send to the Supreme Court as much of the record as could be procured, and apply here for a certiorari to give him opportunity to move in the court below. *State v. McDraughon*, 168 N. C. 131, 83 S. E. 181.

Copy of Judgment Omitted.—Where on appeal no printed copy of the judgment accompanies the record, the appeal will be dismissed under this Rule. *Wiley v. Bessemer City Mining Co.*, 117 N. C. 489, 23 S. E. 448.

Case Decided on False Record.—Where a criminal case is decided in the Supreme Court on a record afterwards found

to be false, it will be restored to the docket and a certiorari issued to correct the record. *State v. Marsh*, 134 N. C. 184, 47 S. E. 6.

Motion to Reinstate.—A motion to reinstate a case on appeal that has been dismissed on appellee's motion, for nonconformity with the rules of the court requiring the record to be indexed, and to show the appellant's exceptions under proper assignments of error in accordance with the manner specified, will be denied, when the granting of the motion would not cure the defects. *Redding v. Dunn*, 185 N. C. 311, 117 S. E. 26.

(2) **Two Appeals.** When there are two or more appeals in one action it shall not be necessary to have more than one transcript, but the statements of cases on appeal shall be settled as now required by law, and shall appear separately in the transcript. The judge of the Superior Court shall determine the part of the costs of making the transcript to be paid by each party, subject to the right to recover such costs in the final judgment as now provided by law.

Where two separate actions which cannot be joined in the same action are tried together for convenience but not consolidated by the court into one action, separate appeals should be taken and separate records filed by the respective applicants, and this rule is not applicable. *Osborne v. Canton*, 219 N. C. 139, 13 S. E. (2d) 265.

Marginal References.—There must be printed on the margin, or as subheads, of each transcript of record a brief statement of the subject-matter contained therein, and such marginal references or subheads embrace also the duty of numbering the exceptions. *Brinkley v. Smith*, 130 N. C. 224, 41 S. E. 106.

(3) **Exceptions Grouped.** All exceptions relied on shall be grouped and separately numbered immediately before or after the signature to the case on appeal. Exceptions not thus set out will be deemed to be abandoned. If this rule is not complied with, and the appeal is not from a judgment of nonsuit, it will be dismissed, or the Court will in its discretion refer the transcript to the clerk or to some attorney to state the exceptions according to this rule, for which an allowance of not less than \$5 will be made, to be paid in advance by the appellant; but the transcript will not be so referred or remanded unless the appellant file with the clerk a written stipulation that the appeal shall be heard and determined on printed briefs under Rule 10, if the appellee shall so elect.

Cross References.—See notes to Rule 21. As to exceptions, generally, see G. S. §§ 1-186 and 1-206 and notes thereto.

Rule Strictly Adhered to.—The requirement that errors relied on be assigned in the record, and that the exceptions relied on shall be grouped, numbered, and set out immediately after the statement of the case on appeal, must be strictly adhered to, except when the appeal is on the ground the judgment was not justified by the facts found or admitted, or that the court did not have jurisdiction. *Owens v. Hines*, 178 N. C. 325, 100 S. E. 617; *Pegram v. Hester*, 152 N. C. 765, 68 S. E. 8; *Sigman v. Sou. R. Co.*, 135 N. C. 181, 47 S. E. 420.

Assignment of Error Necessary.—Appellee's motion to dismiss the appeal will be allowed when the record contains no assignment of error. *Hobbs v. Hobbs*, 218 N. C. 463, 11 S. E. (2d) 311.

Not Sufficient to Show Exceptions in Record.—This rule is not complied with by showing in the record the various exceptions numbered, but on different pages, when there is no assignment of errors at the end of the case, either before or after the judge's signature; and the appeal will be dismissed. *Jones v. Atlantic, etc., R. Co.*, 153 N. C. 419, 69 S. E. 427.

When Only Correctness of Judgment Questioned.—When the appeal calls in question only the correctness of the judgment no summary of exceptions is required, because it is error on the face of the record. *Ullery v. Guthrie*, 148 N. C. 417, 62 S. E. 552. *Wilson v. Beaufort County Lumber Co.*, 131 N. C. 163, 42 S. E. 565.

When Error Plainly Apparent.—Where the exceptions are separately stated and numbered, but are not brought to-

gether at the end of the case, a motion by the appellee to affirm will be denied if the error intended to be assigned is plainly apparent. *Hicks v. Kenan*, 139 N. C. 337, 51 S. E. 941.

When Only One Exception Taken.—An appeal will not be dismissed for noncompliance with this rule, requiring all the exceptions relied on to be set out immediately after the statement of the case on appeal, where the appellee was not prejudiced; there being only one exception taken, and that being stated in the record, though improperly. *Wall v. Holloman*, 156 N. C. 275, 72 S. E. 369.

Transcript Filed Too Late for Hearing.—Where transcript was filed too late for hearing at term on appeal, a motion to dismiss, on the ground that assignments of error were not grouped and numbered as required by the rule, could not be entertained until the following term. *McLean v. McDonald*, 175 N. C. 418, 95 S. E. 769.

Exceptions to Rulings Granting New Trial Should Be Specifically Stated in Case of Appeal to Supreme Court.—When an appeal is taken from the general county court to the Superior Court for errors assigned in matters of law, as authorized by § 7-295, and a new trial is granted by the Superior Court, it is essential that the rulings upon exceptions granting the new trial be specifically stated, so that in case of appeal to the Supreme Court they may be separately assigned as error in accordance with this rule, and properly considered on appeal. *Jenkins v. Castelloe*, 208 N. C. 406, 407, 181 S. E. 266.

Appeal Dismissed for Failure to Follow Rule.—Where exceptions and assignments of error in a special municipal court are overruled upon appeal to the Superior Court, and are again relied on in an appeal to the Supreme Court, they must be sufficiently definite to enable the Supreme Court to understand what questions are sought to be presented without a voyage of discovery through the record. Rule 19, § 3, and otherwise the appeal will be dismissed on the appellee's motion. *Cecil v. Snow Lumber Company*, 197 N. C. 81, 147 S. E. 735.

Assignments of error which only group the exceptions, as, "Group 1 includes the first assignment," etc., give no indication of the error complained of, and are far from being a compliance with the rule, and will be dismissed under this rule. *Merritt v. Dick*, 169 N. C. 244, 85 S. E. 2; see, also, *Smith v. Globe Home Furn. Mfg. Co.*, 151 N. C. 260, 65 S. E. 1009; *McDonald v. Kent*, 153 N. C. 555, 69 S. E. 626.

Applied, as to subsection (3), in *Hancock v. Wilson*, 211 N. C. 129, 134, 189 S. E. 631; *State v. Moore*, 222 N. C. 356, 357, 23 S. E. (2d) 31.

(4) **Evidence to Be Stated in Narrative Form.** The evidence in case on appeal shall be in narrative form, and not by question and answer, except that a question and answer, or a series of them, may be set out when the subject of a particular exception. When this rule is not complied with, and the case on appeal is settled by the judge, this Court will in its discretion hear the appeal, or remand for a settlement of the case to conform to this rule. If the case is settled by agreement of counsel, or the statement of the appellant becomes the case on appeal, and the rule is not complied with, or the appeal is from a judgment of nonsuit, the appeal will be dismissed. In other cases the Court will in its discretion dismiss the appeal, or remand for a settlement of the case on appeal.

Cross Reference.—As to case on appeal, generally, see G. S. §§ 1-282, 1-283 and notes thereto.

Stenographer's Notes Insufficient.—When the appellant has set out in the case on appeal the transcribed stenographer's notes of the trial, he fails to prepare a concise statement of the case as required by this section, and his appeal will be dismissed, when upon examination no error is found in the record proper. *Skipper v. Kingsdale Lumber Co.*, 158 N. C. 322, 74 S. E. 342; *Bucken v. South, etc., R. Co.*, 157 N. C. 443, 73 S. E. 137.

Cannot Be Waived.—The requirements of the rule of the Supreme Court, that the evidence must appear in the case on appeal in narrative form, cannot be waived by the parties. *Bank v. Fries*, 162 N. C. 516, 77 S. E. 678; *Bucken v. Sou., etc., R. Co.*, 157 N. C. 443, 73 S. E. 137.

Same—Appeal in Forma Pauperis.—That the action is in forma pauperis, does not excuse the appellant in sending up the transcribed stenographer's notes in a voluminous record. *Skipper v. Kingsdale Lumber Co.*, 158 N. C. 322, 74 S. E. 342.

Effect of Failure to Comply.—Where the appellant has failed to make a concise statement of the evidence according to the Rules of Practice, but gives the entire evidence in the form of questions to and answers of witnesses, taken from the stenographer's notes, the appeal will be dismissed and the judgment affirmed upon motion of the appellee. *Casey v. East Carolina Ry.*, 198 N. C. 432, 152 S. E. 38; *Rhoades v. Asheville*, 220 N. C. 443, 17 S. E. (2d) 500.

Although case on appeal was not prepared in accordance with subsection (4) of this rule the appeal was allowed as a dismissal would have been a denial of justice. *Messick v. Hickory*, 211 N. C. 531, 191 S. E. 43.

(5) **Unnecessary Portions of Transcript—How Taxed.** The cost of copying and printing unnecessary and irrelevant testimony, or any other matter not needed to explain the exceptions or errors assigned, and not constituting a part of the record proper, shall in all cases be charged to the appellant, unless it appears that they were sent up at the instance of the appellee, in which case the cost shall be taxed against him.

Cross Reference.—See notes to Rule 26.

(6) **Transcripts in Pauper Appeals.** See Rule 22.

(7) **Maps.** Nine copies of every map or diagram which is a part of the transcript of appeal, and which is applicable to the merits of the appeal, shall be filed with the clerk of this Court before such appeal is called for argument.

Filing Copies of Plat.—Where a plat is referred to in the pleadings and evidence, and is necessary to the understanding of an appeal, the same number of copies of the plat must be filed as is required of the printed record and briefs, or the judgment below will be affirmed or appeal dismissed. *Stephens v. McDonald*, 132 N. C. 135, 43 S. E. 592.

This is also true of an exhibit made part of the case on appeal. *Fleming v. McPhail*, 121 N. C. 183, 28 S. E. 258; *Hicks v. Royal*, 122 N. C. 405, 29 S. E. 413.

But where the map or plat is irrelevant its exclusion will not be held error. *Fulwood v. Fulwood*, 161 N. C. 601, 77 S. E. 763.

(8) **Appeal Bond.** See Rule 6 (1).

Cross References.—As to appeal bond generally, see G. S. § 1-285 et seq. As to costs on appeal generally, see G. S. § 6-33 et seq.

(9) The prosecution bond given in every case shall be sent up with the transcript of the record. Such bond shall be justified and the justification shall name the county wherein the surety resides.

(10) **Insufficient Transcript.** If a transcript has not been properly arranged, as required by subsection (1) of this rule, the appeal shall be dismissed or referred to the clerk to be properly arranged, for which an allowance of \$5 shall be made to him. If the appeal is not dismissed, and is so referred to the clerk, it shall be placed for hearing at the end of the district, or the end of the docket, or continued as the Court may deem proper.

Appeal Properly Dismissed Where "Judgment of Superior Court" Is Assigned as Error.—Where, on appeal from judgment of the general county court to the Superior Court on matters of law, the Superior Court overrules each of the exceptions relied upon by appellant, upon further appeal to the Supreme Court the appellant should bring forward each ruling of the Superior Court on the exceptions deemed erroneous, and properly group them and assign same as error, and where appellant merely assigns as error "the judgment of the Superior Court," the appeal will be dismissed or the judgment affirmed. *Harrell v. White*, 208 N. C. 409, 181 S. E. 268.

20. Pleadings

(1) When Deemed Frivolous. Memoranda of pleadings will not be received or recognized in the Supreme Court as pleading, even by consent of counsel, but the same will be treated as frivolous and impertinent.

Cited in *Washington County v. Norfolk Southern Land Co.*, 222 N. C. 637, 24 S. E. (2d) 338.

(2) When Containing More Than One Cause of Action. Every pleading containing two or more causes of action shall, in each, set out all the facts upon which it rests, and shall not, by reference to others, incorporate in itself any of the allegations in them, except that exhibits, by marks or numbers, may be referred to without reciting their contents, when attached thereto.

(3) When Scandalous. Pleadings containing scandalous or impertinent matter will, in a plain case, be ordered by the Court to be stricken from the record, or reformed; and for this purpose the Court may refer it to the clerk, or some member of the bar, to examine and report the character of the same.

(4) Amendments. The Court may amend any process, pleading, or proceeding, either in form or substance, for the purpose of furthering justice, on such terms as shall be deemed just, at any time before final judgment, or may make proper parties to any case, where the Court may deem it necessary and proper for the purpose of justice, and on such terms as the Court may prescribe.

Cross References.—As to amendments to pleadings generally, see G. S. § 1-161 et seq. As to the power of the Supreme Court to order amendment, see G. S. § 7-13 and notes thereto.

The Supreme Court will not anticipate questions of constitutional law in advance of the necessity of deciding them, nor will it give advisory opinions on such questions, and where the record in a case on appeal is so complete that it may not be determined that the constitutionality of a statute is squarely presented, the questions will not be decided. *Plott Co. v. Ferguson Const. Co.*, 198 N. C. 782, 153 S. E. 396.

Impertinent Matter Is Stricken.—Where "impertinent" matter is introduced into the pleadings, it is, according to the course of the Court, to be stricken out at the expense of the party introducing it. *Powell v. Cobb*, 56 N. C. 1.

No matter is impertinent, however scandalous it may be, or however much it may tend to degrade, provided it bears upon the point about which the parties are at issue. *Id.*

21. Exceptions. (See also, Rule 19 (3).)

Every appellant shall set out in his statement of case served on appeal his exceptions to the proceedings, ruling, or judgment of the court, briefly and clearly stated and numbered. When no case settled is necessary, then, within ten days next after the end of the term at which the judgment is rendered from which an appeal shall be taken, or, in case of a ruling of the court at chambers and not in term-time, within ten days after notice thereof, appellant shall file the said exceptions in the office of the clerk of the court below. No exceptions not thus set out, or filed and made a part of the case or record, shall be considered by this Court, other than exceptions to the jurisdiction, or because the complaint does not state a cause of action, or motions in arrest for the insufficiency of an indictment. When testimony is admitted, not as substantive evidence, but in corroboration or contradiction, and that fact is stated by the court when it is ad-

mitted, it will not be ground for exception that the judge fails in his charge to again instruct the jury specially upon the nature of such evidence, unless his attention is called to the matter by a prayer for instruction; nor will it be ground of exception that evidence competent for some purposes but not for all, is admitted generally, unless the appellant asks, at the time of admission, that its purpose shall be restricted.

I. Exceptions.

II. Corroborative and Contradictory Evidence.

I. EXCEPTIONS.

Cross References.—As to exceptions generally, see G. S. §§ 1-186 and 1-206 et seq. and notes thereto. See also, analysis line III of the notes to G. S. § 1-282.

Assignment of Error Must Be Clearly Stated.—Assignments of error must be clearly and intelligently stated so that the Court will not have to look at exceptions therein referred to in order that they may be understood; for otherwise they will not be considered on appeal. *Myrose v. Swain*, 172 N. C. 223, 90 S. E. 118.

Duty to Prepare Assignment of Error.—The preparation of the assignment of error is the work of the attorney for the appellant, and is not a part of the case on appeal, and its office is to group the exceptions noted in the case on appeal; and, if there is an assignment of error not supported by an exception, it will be disregarded. *Worley v. Laurel River Logging Co.*, 157 N. C. 490, 73 S. E. 107; *McLeod v. Gooch*, 162 N. C. 122, 78 S. E. 4; *Allred v. Kirkman*, 160 N. C. 392, 76 S. E. 244.

Appeal Dismissed for Failure to Follow Rule.—The court will dismiss the appellant's case when he fails to assign error as required by this rule. *In re Bailey*, 180 N. C. 30, 103 S. E. 896; *Thresher Co. v. Thomas*, 170 N. C. 680, 87 S. E. 327; *Hobbs v. Cashwell*, 158 N. C. 597, 74 S. E. 23.

The appellee's motion to dismiss the appeal because, (1) the exceptions are not "briefly and clearly stated and numbered," (2) the exceptions relied upon are not grouped and numbered immediately after the end of the case on appeal, (3) the index is not placed at the front of the record, will be allowed. *Davis v. Wall*, 142 N. C. 450, 451, 55 S. E. 350. See, also, *Jones v. Atlantic, etc., R. Co.*, 153 N. C. 419, 69 S. E. 427.

Rule Cannot Be Waived.—The rule requiring the assignment of error in the record on appeal is for the benefit of the court, and counsel cannot waive it. *Parrott v. Hardesty*, 169 N. C. 667, 86 S. E. 582; *Southern Spruce Co. v. Hunnicutt*, 166 N. C. 202, 81 S. E. 1079.

General Exception.—Where the plaintiff filed a large number of exceptions to the referee's report and the judge confirms or modifies certain portions of the report and sets aside others, an exception, "The plaintiff excepts to such rulings, adverse to it and appeals," is too general to be considered. *Commissioners v. Erwin*, 140 N. C. 193, 52 S. E. 785.

Where there is a single assignment of error to several rulings of the trial court, and one of them is correct, the assignment must fail. *Buie v. Kennedy*, 164 N. C. 290, 80 S. E. 445.

Reference by Number Insufficient.—This rule must be complied with to have the appeal considered by the court; and where the assignments of error each simply refers to the exception of record by number, without giving the purport or text thereof, it is insufficient, and the judgment of the trial court will be affirmed. *Porter v. American Cigar Box Lumber Co.*, 164 N. C. 396, 80 S. E. 443.

A statement purporting to be assignments of error appearing in the record just after the statement of the case on appeal, setting forth in general terms that the appellant excepted to the rulings of the court, as appeared in certain numbered exceptions of record taken on trial, such exceptions themselves not being sufficiently stated, in excluding evidence, and "to a judgment of nonsuit as noted in the forty-seventh exception," is not definite enough for the court to consider on appeal or to be referred to the clerk to be put in the prescribed shape therefor, and the appeal should be dismissed. *Thompson v. Seaboard Air Line R. Co.*, 147 N. C. 412, 61 S. E. 286.

Reference to Page.—Where the assignments of error are not comprehensive enough to give a clear idea to the court of the matters to be debated without examining the record, they will not be considered, as, "to the question and answer in the admission of the evidence" of a certain witness, "as contained in the exception 1 on page—of the record;" and

the giving of proper page will not cure its insufficiency. *Rogers v. Jones*, 172 N. C. 156, 90 S. E. 117.

Exceptions to Evidence.—The assignments of error on questions of evidence should set out the testimony so that their relevancy can be seen; and on the rulings of the court or some other matters occurring at the trial, the ruling itself or the attendant facts and circumstances should be so stated that their bearing on the controversy can be perceived to some extent in reading the assignments themselves. *Thompson v. Seaboard Air Line R. Co.*, 147 N. C. 412, 61 S. E. 286; *Carter v. Reaves*, 167 N. C. 131, 83 S. E. 248.

The admission of evidence generally and without qualification will not be held erroneous, even though the evidence is competent only for the purpose of corroboration, when at the time of its admission defendant does not request that its purpose be restricted. *State v. Johnson*, 218 N. C. 604, 12 S. E. (2d) 278.

Exceptions to Unanswered Questions.—Where exception is taken to the judge's exclusion of evidence upon the trial, it is upon appellant to show error, and when the exception is taken to unanswered questions, the substance of the answers must be made to appear on appeal, so that the Supreme Court may pass upon its competency. *Hamlet Ice Co. v. Jones Constr. Co.*, 194 N. C. 407, 139 S. E. 771; *Wallace v. Barlow*, 165 N. C. 676, 81 S. E. 924.

Defendant desiring evidence to be restricted to particular purpose should make request to that effect. *State v. Hendricks*, 207 N. C. 873, 178 S. E. 557.

Exception to Issues Submitted.—Where a cause was tried under one issue, without exception taken, the assignment of error that other issues should have been submitted is not in compliance with the rules of court regulating appeals. *McNairy v. Norfolk, etc., R. Co.*, 172 N. C. 505, 90 S. E. 497.

Exception to Directed Verdict.—It is not required that an exception to the direction of a verdict by the court upon the evidence should conform to the particulars of Rules 19, 21 and 28, for it is analogous to instances of nonsuit, which require that the court examine into the pertinent evidence in the record. *Wynn v. Grant*, 166 N. C. 39, 81 S. E. 949.

Questions Discussed in Brief Only.—A question discussed in the brief but not presented by any exception or assignment of error can not be considered. *Coon v. Southern R. Co.*, 171 N. C. 759, 88 S. E. 510; *Needham v. Southern R. Co.*, 171 N. C. 765, 88 S. E. 511.

When Complaint Does Not State Cause of Action.—A defendant, without filing exception on appeal from an adverse judgment, may move to dismiss the action on the ground that the complaint does not state a cause of action. *Lloyd v. North Carolina R. Co.*, 151 N. C. 536, 66 S. E. 604.

This is not true of an objection for misjoinder of cause of action. *Wright v. Kinney*, 123 N. C. 618, 31 S. E. 874.

Insufficiency of Indictment.—A motion in arrest of judgment for insufficiency of the indictment may be made in the Supreme Court on appeal, and it is not necessary that the question be presented by exception taken in the trial court. *State v. Jones*, 218 N. C. 734, 12 S. E. (2d) 292.

A motion in arrest of judgment, based upon facts which defendant alleges did not come to his knowledge until after expiration of the trial term, cannot be allowed in the Supreme Court when there is no fatal defect appearing on the face of the record. *State v. Chapman*, 221 N. C. 157, 19 S. E. (2d) 250.

Applied in *Chamblee v. Baker*, 95 N. C. 98; *Davenport v. Leary*, 95 N. C. 203; *Raleigh v. Peace*, 110 N. C. 32, 14 S. E. 521; *Greensboro v. McAdoo*, 110 N. C. 430, 14 S. E. 974; *Greensboro v. McAdoo*, 112 N. C. 359, 17 S. E. 178; *Alexander v. Alexander*, 120 N. C. 472, 27 S. E. 121; *Lucas v. Carolina Cent. R. Co.*, 121 N. C. 506, 28 S. E. 265; *Baker v. Hobgood*, 126 N. C. 149, 35 S. E. 253; *McDowell v. Kent*, 153 N. C. 555, 69 S. E. 626.

II. CORROBORATIVE AND CONTRADICTORY EVIDENCE.

Effect of Rule.—This rule relieves the trial judge of the duty of instructing specially upon the nature of corroborative or impeaching evidence, unless specially requested. *Westfeldt v. Adams*, 135 N. C. 591, 47 S. E. 816.

Exception Not Considered.—A witness may testify to statements he had made to the defendant's agent when in corroboration of his testimony; and where the record states that it was confined to that purpose, or there was no request made that it be so confined, it will not be considered as reversible error on appeal. *Perry v. Branning Mfg. Co.*, 176 N. C. 68, 97 S. E. 162; *Whitehurst v. Padgett*, 157 N. C. 424, 73 S. E. 240; *Singleton v. Roebuck*, 178 N. C. 201, 100 S. E. 313.

When the evidence is corroborative, the failure of the trial court to restrict it will not be considered on appeal unless the objecting party asks for an instruction to that effect. *Chrisco v. Yow*, 153 N. C. 434, 69 S. E. 422; *Cooper v. Seaboard Air Line R. Co.*, 163 N. C. 150, 79 S. E. 418.

Where several witnesses testified to certain facts which the trial judge at the time stated were competent only for the purpose of corroboration, and when charging the jury in reciting the testimony of one of these witnesses he repeated that it was to be considered only for the purpose of corroboration, but failed to do so in reciting the testimony of other witnesses, an exception to such omission cannot be sustained, in the absence of a request to charge that the same rule applied to all of the testimony of that class. *Liles v. Lumber Co.*, 142 N. C. 39, 54 S. E. 795.

Evidence Competent for Some Purpose.—When evidence is competent for some purpose, its general admission is not reversible error unless the appellant asks at the time of the admission that it be restricted. *Tise v. Thomasville*, 151 N. C. 281, 65 S. E. 1007.

When evidence competent for some purposes, but not for all, is admitted generally, unless appellant asks at the time of the admission that its purpose be restricted, or requests special instructions to that effect, the failure of the judge to so restrict it is not assignable for error. *Hill v. Bean*, 150 N. C. 436, 64 S. E. 212.

Objection That Instruction Insufficient.—Where the declarations of a party to an action are admissible as to him alone, and the judge has so instructed the jury, an objection that the instruction was not sufficiently definite will not be sustained, unless there was a request to make it so, which was refused. *Plemmons v. Murphey*, 176 N. C. 671, 97 S. E. 648.

Error in restricting Evidence Harmless.—In view of this rule, a charge which informed the jury that the testimony was to be considered solely in impeachment of a witness, even if error, was harmless. *Medlin v. County Board*, 167 N. C. 239, 83 S. E. 483.

Unsupported Statements of Appellant.—A statement in the assignments of error, when there is nothing in the statement or record of the case on appeal to give it any support, is only the unsupported statement of the appellant of what had occurred, and hence the assignment of error depending thereon will not be considered on appeal. *State v. Freeze*, 170 N. C. 710, 86 S. E. 1000.

Where the charge of the court is not set out in the record on appeal, the presumption is in favor of its correctness, and that the appellant would otherwise have excepted, and especially so when it is stated that the judge charged the jury at length concerning the case. *State v. Jones*, 182 N. C. 781, 108 S. E. 376.

22. Printing Transcripts. (But see Rule 25.)

Twenty-five copies of the transcript in every case docketed, except in pauper appeals, shall be printed and filed immediately after the case has been docketed, unless printed before the case has been docketed, in which event the printed copies shall be filed when the case is docketed. It shall not be necessary to print the summons and other papers showing service of process, if a statement signed by counsel is printed giving the names of all the parties and stating that summons has been duly served. Nor shall it be necessary to print formal parts of the record showing the organization of the court, the constitution of the jury, etc.

In pauper appeals the counsel for appellant may file nine legible typewritten copies of his brief, in lieu of printed copies, if he so elects, and such briefs must give a succinct statement of the facts applicable to the exceptions and the authorities relied on, and in pauper appeals the appellant may also file, in lieu of printed copies, if he so elects, nine legible typewritten copies of the transcript, in addition to the original transcript. Should the appellant gain the appeal, the cost of preparing the typewritten briefs or transcripts shall be taxed against the appellee, provided receipted statement of such cost is given

the clerk of this Court before the case is decided. The arrangement of the matter in the printed transcript shall follow the order prescribed by Rule 19.

Cross References.—See notes to Rule 24. As to appeals from civil suits in forma pauperis generally, see G. S. § 1-288 and notes thereto. As to appeals in forma pauperis in criminal actions, see § 15-181 and notes thereto.

Pauper Appeals—Rule Mandatory.—The rule of practice in the Supreme Court requiring appellant in appeals in forma pauperis to file seven [nine] typewritten copies of his brief and of the transcript, in addition to the original transcript, is mandatory, and a compliance with its provisions is necessary to entitle the appellant to have his appeal decided on its merits. *Wachovia Bank, etc., Co. v. Miller*, 191 N. C. 787, 133 S. E. 97; *Wishon v. Gastonia Weaving Co.*, 220 N. C. 420, 17 S. E. (2d) 509.

Upon appeal to the Supreme Court in forma pauperis, the appellant is required to file seven [nine] typewritten copies of his brief upon penalty of having his case dismissed, and printed briefs must be filed by the appellee for him to be heard on the oral argument. *Fisher v. Toxaway Co.*, 171 N. C. 547, 88 S. E. 887.

The nine typewritten copies must be legible. *Wishon v. Gastonia Weaving Co.*, 220 N. C. 420, 17 S. E. (2d) 509.

Same—Dismissal for Failure to Follow Rule.—An appeal to the Supreme Court will be dismissed if the appellant fails to comply with the rule, requiring the appellant, in pauper appeals, when docketing the appeal, to file seven [nine] typewritten copies of the record, including case on appeal and briefs; and that the brief of the appellant be prefaced by a clear and concise statement, showing the nature of the case and the facts bearing upon the assignments of error; and this is required whether the appellant may have received notice of the rule from the Supreme Court clerk or not. *Estes v. Rash*, 170 N. C. 341, 87 S. E. 109.

The omission in an affidavit to appeal in forma pauperis of the averment that it was made "in good faith" is of a matter of jurisdiction; and the appeal must be dismissed on motion, as a matter of right, and is not one of discretion. *State v. Smith*, 152 N. C. 842, 67 S. E. 965.

Applied in *State v. Hopkins*, 217 N. C. 324, 7 S. E. (2d) 566.

23. How Printed

The transcript on appeal shall be printed under the direction of the clerk of this Court, and in the same type and style, and pages of same size as the reports of this Court, unless it is printed before the appeal is docketed in the required style and manner. If it is to be printed here the appellant or the party sending up the appeal shall send therewith to the clerk of this Court a cash deposit, sufficient to cover the cost of printing, which shall include 10 cents per page for the clerk of this Court, to recompense him for his services in preparing the transcript in proper shape for the printer.

When it appears that the clerk has waived the requirement of a cash deposit by appellant to cover estimated cost of printing, and the cost of printing has not been paid when the case is called for argument, the Court will in its discretion, on motion of counsel for appellee or a statement by the clerk, dismiss the appeal.

Purpose of Rule.—This rule is for the purpose of preserving them in bound volumes of uniform size, for the use of the court, and must be complied with. *Howard v. Western Union Teleg. Co.*, 170 N. C. 495, 87 S. E. 313.

Appeal Dismissed if Deposit Not Made.—If the record has not been printed, and appellant has failed to make the deposit in the clerk's office required to cover the cost of printing the same, on motion duly made, under the rule of this court, the appeal will be dismissed for failure to print the record as required by the rule, the laches in the case being imputable to the party appealing and not to his attorney. *State v. Charles*, 161 N. C. 286, 76 S. E. 715.

24. Appeal Dismissed if Transcript Not Printed or Mimeographed

If the transcript on appeal (except in pauper

appeals) shall not be printed or mimeographed as required by the rules, by reason of the failure of the appellant to send up the transcript or deposit the cost therefor in time for it to be printed, when called in its regular order (as set out in Rule 5), the appeal shall, on motion of appellee, be dismissed but the Court may, on motion of appellant, after five days' notice, at the same term, for good cause shown, reinstate the appeal, to be heard at the next term. When a cause is called and the record is not fully printed, if the appellee does not move to dismiss, the cause will be continued. The Court will hear no cause in which the rules as to printing are not complied with, other than pauper appeals.

Necessity of Printed Record.—The requirement as to printing the parts of the record which are essential to be considered on appeal is a necessity, demonstrated by the experience of the court, and hence is not a purely arbitrary matter, to be dispensed with at will. It was not adopted without full consideration, and its nonobservance will not be excused without a good cause. *Barnes v. Crawford*, 119 N. C. 127, 25 S. E. 791.

Appeal Dismissed When Record Not Printed.—If the record has not been printed, and appellant has failed to make the deposit in the clerk's office required to cover the cost of printing the same, on motion duly made, under the rule of this court, the appeal will be dismissed for failure to print the record. *State v. Charles*, 161 N. C. 286, 76 S. E. 715; *Stroud v. Western Union Tel. Co.*, 133 N. C. 253, 45 S. E. 592.

Same—Judgment for Costs Final.—A judgment in the Supreme Court dismissing an appeal for the failure of appellant to print the record and taxing him with cost, is final, without authority in the lower court to permit him to recover them. *Midgett v. Vann*, 158 N. C. 128, 73 S. E. 801.

Appellant Not in Default.—Denial of a motion to dismiss because the appeal was not docketed and printed ready for argument within the time prescribed is proper only where appellant is not in default. *Board v. Chapman*, 151 N. C. 327, 66 S. E. 221.

Negligence of Counsel No Excuse.—The printing of a record on appeal requires no legal skill and, hence, the negligence of counsel is no excuse for the failure to print and where an appeal has been dismissed for such failure a motion to reinstate will not be allowed. *Dunn v. Underwood*, 116 N. C. 525, 20 S. E. 965; *Griffin v. Nelson*, 106 N. C. 235, 11 S. E. 414; *Neal v. Old North State Land Co.*, 112 N. C. 841, 17 S. E. 538. For an earlier case holding contra, see *Wiley v. Logan*, 94 S. E. 564.

Delay of Appellant No Excuse.—If a party will delay sending up his transcript to the last minute, he should either send it up with the requisite parts of the record printed, or arrange to have it promptly done here. It is no excuse for an appellant to delay docketing his appeal till the time left between the docketing and calling the case for argument is perhaps too brief in which to print the record. *Stainback v. Harris*, 119 N. C. 107, 25 S. E. 858; *Truelove v. Norris*, 152 N. C. 755, 67 S. E. 487.

Ignorance of Requirement as to Printed Record.—Where, in the absence of appellant's counsel, an appeal was dismissed because of appellant's failure to have the record printed, a motion to reinstate, because the appellant did not know that a printed record was required in an appeal like this from an order in the case, will be denied, where it appears that appellant has been otherwise guilty of laches in the prosecution of his appeal. *Stephens v. Koonce*, 106 N. C. 255, 11 S. E. 282.

Request That Clerk Print Record.—A mere request by appellant of the clerk of the court to have the record printed, and the bill sent appellant, without further attention by appellant, though he receives no bill, will not justify a reinstatement of his appeal, dismissed for lack of printed record. *Carter v. Long*, 116 N. C. 44, 46, 20 S. E. 1013.

Lack of Money as Excuse for Failure to Print.—One not appealing in forma pauperis must comply, notwithstanding his inability to raise the money necessary for the printing of the record, with the rule of court requiring such printing. *Rencher v. Anderson*, 93 N. C. 105. And a motion to reinstate the case will be denied. *Turner v. Tate*, 112 N. C. 457, 17 S. E. 72.

Time within Which Record Must Be Printed.—The rule requiring a printed record is satisfied if the record has been

printed when the cause is called for argument. *Smith v. Montague*, 121 N. C. 92, 28 S. E. 137; *Armour Packing Co. v. Williams*, 122 N. C. 406, 29 S. E. 366.

Misunderstanding as to Time of Printing.—Where there was an honest misunderstanding between counsel in regard to making up the case on appeal, and the case had not been made up when the case was heard in the appellate court, the record having been docketed without a case, and counsel for appellant supposed that there was no necessity of printing the record until the case came up, and the appellee moved to dismiss, which was allowed, it was proper to reinstate the appeal. *Rencher v. Anderson*, 94 N. C. 661.

When Cause Docketed Too Late for Hearing.—Where a cause was docketed too late for hearing at a term of the Supreme Court, a motion to dismiss for failure to print the record must be denied. *Gupton v. Sledge*, 161 N. C. 213, 76 S. E. 527; *Bumgarner v. Thornton Light, etc., Co. (N. C.)*, 76 S. E. 528.

Printing Index.—When any part of the record on appeal is printed, the indexes and marginal references should also be printed. *Alexander v. Alexander*, 120 N. C. 472, 27 S. E. 121; *Pretzfelder v. Merchants Ins. Co.*, 123 N. C. 164, 31 S. E. 470; *Lucas v. Carolina Central R. Co.*, 121 N. C. 506, 28 S. E. 265.

Attorney Absent When Appeal Dismissed.—Where, in the absence of appellant's counsel, an appeal was dismissed because of appellant's failure to have the record printed as therein required, the cause will not be reinstated. *Avery v. Pritchard*, 106 N. C. 344, 11 S. E. 281.

Failure to Transmit Sufficient Copies.—An appeal which has been dismissed for appellant's failure to print the copies of the record will be reinstated on affidavits of appellant and others that he caused the requisite number of copies to be printed, but, owing to a misunderstanding of the instructions given him by his counsel and the clerk of the Superior Court, to whom he applied for information, he sent only one printed copy to the Supreme Court. *Smith v. Summerfield*, 107 N. C. 580, 12 S. E. 465.

When Motion to Reinstate Made.—A motion to reinstate an appeal dismissed for failure to print must be made at the same term, and will only then be allowed for good cause shown. *Pipkin v. Green*, 112 N. C. 355, 17 S. E. 534.

Applied in *Witt v. Long*, 93 N. C. 388; *Horton v. Green*, 104 N. C. 400, 10 S. E. 470; *Whitehurst v. Pettipher*, 105 N. C. 39, 10 S. E. 857; *Hunt v. Richmond, etc., Ry. Co.*, 107 N. C. 447, 12 S. E. 378; *In re Berry*, 107 N. C. 326, 12 S. E. 125; *Rodman v. Archbell*, 108 N. C. 413, 13 S. E. 111; *Hinton v. Pritchard*, 108 N. C. 412, 12 S. E. 838; *Edwards v. Henderson*, 109 N. C. 83, 13 S. E. 779; *Dunn v. Underwood*, 116 N. C. 525, 20 S. E. 965; *Wiley v. Bessemer City Min. Co.*, 117 N. C. 489, 23 S. E. 448; *Thurber v. Eastern Bldg., etc., Ass'n*, 118 N. C. 129, 24 S. E. 730; *Walters v. Starnes*, 118 N. C. 842, 24 S. E. 713; *Barnes v. Crawford*, 119 N. C. 127, 25 S. E. 791; *Hicks v. Royal*, 122 N. C. 405, 29 S. E. 413; *Bradshaw v. Stansberry*, 164 N. C. 356, 79 S. E. 302.

25. Mimeographed Records and Briefs

Counsel may file in lieu of printed records and briefs 25 mimeographed copies thereof, to be prepared under the immediate supervision and direction of the clerk and marshal of this Court, the cost of such copies not to exceed \$1.10 per page of an average of 40 lines and 400 words to the page: Provided, however, that it shall be permissible and optional with counsel to file printed transcripts and briefs when it is possible to print such documents without unnecessary delay and inconvenience to the Court and appellee's counsel, and within time for an appeal to be heard in its regular order under Rule 5.

The clerk of this Court is required to purchase the stencil sheets, arrange all matter to be mimeographed for the operator, to supervise the work, and to index the mimeographed transcripts and mail copies promptly to counsel. The marshal shall carefully read and correct the proof of all mimeographed work. A cash deposit covering estimated cost of this work is required as in Rule 23 under the same penalty as therein prescribed for failure to pay the account due for such work.

26. Cost of Printing and Mimeographing Transcripts and Briefs to Be Recovered

The actual cost of printing the transcript of appeal and of the brief shall be allowed the successful litigant, not to exceed \$1.50 per page, and not exceeding sixty pages for a transcript and twenty pages for a brief, unless otherwise specially ordered by the Court, and he shall be allowed 10 cents additional for each such page paid to the clerk of this Court for making copy for the printer, unless the transcript was printed before the case was docketed: provided receipted statement of such cost is given the clerk before the case is decided. In pauper appeals the actual cost of preparing typewritten copies of the transcript of appeal and of the brief shall be allowed the appellant, not to exceed twenty-five cents per page and not to exceed sixty pages for transcript and twenty pages for brief.

Judge and counsel should not encumber the "case on appeal" with evidence or with matters not pertinent to the exceptions taken. When the case is settled, either by the judge or the parties, if either party deems that unnecessary matter is incorporated, he shall have his exception noted, designating the parts deemed unnecessary, and if, upon hearing the appeal, the Court finds that such parts were in fact unnecessary, the cost of making the transcript of such unnecessary matter and of printing the same shall be taxed against the party at whose instance it was incorporated into the transcript, as required by Rule 22, no matter in whose favor the judgment is given here, except when such party has already paid the expense of such unnecessary matter, and in that event he shall not recover it back, though successful on his appeal. Motions for taxation of costs for copying and printing unnecessary parts sent up in the manuscript shall be decided without argument.

A successful litigant shall recover the actual cost of mimeographing a transcript or brief, not to exceed sixty pages of a transcript and twenty pages of a brief, unless otherwise ordered as herein provided in this rule.

Cross Reference.—As to costs on appeal generally, see G. S. § 6-33.

Evidence Not Sent up in Narrative Form.—Upon objection duly entered to the sending up on appeal of the stenographer's notes with questions and answers, instead of in a narrative form, the unnecessary additional pages thus made will be taxed against the party at whose instance it is done. *Overman v. Lanier*, 157 N. C. 544, 73 S. E. 192; *Brazille v. Carolina Barytes Co.*, 157 N. C. 454, 73 S. E. 215.

Same—When Settlement of Case Delayed.—Stenographer's notes of the trial should be sent up on appeal only as to matters involved in the inquiry; but when settlement of the case was delayed so long that the trial judge could not separate the material parts, a motion that costs of such should not be taxed against appellee will not be granted. *Asheville, etc., Co. v. Machin*, 150 N. C. 738, 64 S. E. 887.

Charge Uselessly Included.—Where a party insists that the entire charge of the trial judge should be sent up on appeal as a part of the record, and this has been uselessly done over the objection of the opposing party, being unnecessary to the proper presentation of the matters of law involved, the motion of the latter, upon notice, to retax the cost for the full amount of the printed record, will be sustained. *Roanoke R., etc., Co. v. Privette*, 179 N. C. 1, 101 S. E. 489. See, also, *Waldo v. Wilson*, 177 N. C. 461, 100 S. E. 182; *Yow v. Hamilton*, 136 N. C. 357, 48 S. E. 782.

Excess over Limitation Not Taxed against Losing Party.—Costs of brief exceeding twenty pages will not be taxed against the unsuccessful party, under the rule of the Supreme Court. *Brown v. Harding*, 172 N. C. 835, 90 S. E. 3.

When Excess Taxed against Losing Party.—The successful party on appeal will not be allowed to recover costs for printing record in excess of the amount prescribed by this Rule, except in extraordinary cases where the necessity for such printing is made to appear. *Roberts v. Lewald*, 108 N. C. 405, 12 S. E. 1028; *Durham v. Richmond, etc., R. Co.*, 108 N. C. 399, 12 S. E. 1040; 13 S. E. 1.

Where the defendant is the successful party on appeal, and on his motion to retax costs in the Supreme Court it appears that there was no unnecessary or superfluous matter in the transcript, and that the whole thereof was pertinent and necessary to a proper statement of the facts upon which the assignments of error was based, and the allowance specifically made in this rule was not sufficient to pay for the cost of printing, which is not denied by the other party, it presents a proper instance for the court to specially order that the full cost of printing the transcript be taxed against the plaintiff and the surety on his prosecution bond. *Hardy v. Phoenix Mutual Life Ins. Co.*, 167 N. C. 569, 83 S. E. 801.

Where the record was in excess of that required to properly present the appeal, the appellee at whose instance it was done was taxed with the cost of mimeographing it for the excess over the sixty pages allowed by this rule. *Page Trust Co. v. Pumpelly*, 194 N. C. 580, 140 S. E. 212.

When Subject Matter of Appeal Destroyed.—Where the subject-matter of the action is destroyed before the appeal is heard, the judgment below is presumed to be correct until reversed, and no part of the costs should be adjudged against the appellee. *Taylor v. Vann*, 127 N. C. 243, 37 S. E. 263.

27. Briefs

Twenty-five printed or mimeographed copies of briefs of both parties shall be filed in all cases (except in pauper appeals, as provided in Rule 22). Such briefs may be sent up by counsel ready printed, or they may be printed or mimeographed under the supervision of the clerk of this Court if a proper deposit for cost is made, as specified in Rule 23. They must be of the size and style prescribed by such rule. The briefs are expected to cover all the points presented in the oral argument, though additional authorities may be cited if discovered after brief is filed, by furnishing list to opposing counsel and handing memorandum of same to the marshal to be placed by him with the papers in the case, but counsel will not be permitted to consume time on the argument in the citation of additional authorities.

Cross Reference.—See note to Rule 28.

Brief Not in Accordance with Rules.—An appeal will be dismissed where there is a failure to print the record and briefs in accordance with the rules of the Supreme Court. *Bradshaw v. Stansberry*, 164 N. C. 356, 79 S. E. 302.

When No Brief Filed.—Where the appellant has not filed a brief in the Supreme Court, under the rule the judgment appealed from will be affirmed on appellee's motion, if upon examination of the records proper no error appears. *Board v. Dickson & Co.*, 190 N. C. 330, 129 S. E. 726; *Rowe v. Campbell (N. C.)*, 76 S. E. 474.

Where the defendant, convicted of a capital felony, fails to file a brief in the Supreme Court, the appeal will be dismissed on motion of the Attorney-General after an examination of the record discloses no error. *State v. Kinyon*, 210 N. C. 294, 186 S. E. 368.

27½. Statement of the Questions Involved.

The first page of appellant's brief, other than formal matters appearing thereon, shall be used exclusively for a succinct statement of the question or questions involved on the appeal. Such statement should not ordinarily exceed fifteen lines, and should never exceed one page. This will then be followed on the next page by a recital of the facts and the argument as required by the other rules. In case of disagreement as to the exact question or questions presented for determination, the appellee may submit a counter-statement, using the first page of appellee's brief

for this purpose. But no counter-statement need be made unless appellee thinks appellant's statement is inaccurate, or that it does not present the points for decision in a proper light.

The statement of the questions involved or presented by the appeal, is designed to enable the Court, as well as counsel, to obtain an immediate view and grasp of the nature of the controversy; and a failure to comply with this rule may result in a dismissal of the appeal.

Statement of Case.—A fair and succinct statement of the case should be made at the beginning of the brief, so that the Supreme Court may understand the issues and more expeditiously hear the argument and decide the case. *Balfour Quarry Co. v. West Constr. Co.*, 151 N. C. 345, 66 S. E. 217.

Applied in *Kugler Lbr. Co. v. Latham*, 199 N. C. 820, 156 S. E. 128. See also, *Pruitt v. Wood*, 199 N. C. 788, 156 S. E. 126.

Cited in *Acme Mfg. Co. v. Kornegay*, 195 N. C. 373, 142 S. E. 224; *Caldwell v. Southern Ry. Co.*, 218 N. C. 63, 10 S. E. (2d) 680.

28. Appellant's Brief

The brief of appellant shall set forth a succinct statement of the facts necessary for understanding the exceptions, except as to an exception that there was no evidence, it shall be sufficient to refer to pages of printed transcript containing the evidence. Such brief shall contain, properly numbered, the several grounds of exception and assignment of error with reference to printed pages of transcript, and the authorities relied on classified under each assignment; and if statutes are material, the same shall be cited by the book, chapter, and section. Exceptions in the record not set out in appellant's brief, or in support of which no reason or argument is stated or authority cited, will be taken as abandoned by him. Such briefs when filed shall be noted by the clerk on the docket, and a copy thereof furnished by him to opposite counsel on application.

Appellant shall, upon delivering a copy of his manuscript brief to the printer to be printed or to the clerk of this Court to be printed or mimeographed, immediately mail or deliver to appellee's counsel a carbon typewritten copy thereof. If the printed or mimeographed copies of appellant's brief have not been filed with the clerk of this Court, and no typewritten copy has been delivered to appellee's counsel by 12 o'clock noon on the second Saturday preceding the call of the district to which the case belongs, the appeal will be dismissed on motion of appellee, when the call of that district is begun, unless for good cause shown the Court shall give further time to print the brief.

Pass Briefs Insufficient.—Briefs which merely state with reference to the exceptions taken of record, "Exceptions No. 1. This question and answer are incompetent," etc., afford no assistance to the court. They are merely pass briefs, and do not conform to the rules. *Jones v. Southern R. Co.*, 164 N. C. 392, 86 S. E. 408; *State v. Gibson*, 221 N. C. 252, 20 S. E. (2d) 51.

Failure to File in Time.—Where appellant failed to file his brief within the time prescribed, and the case on appeal contains no assignments of error or grouped exceptions, as required by the rules of the Supreme Court, a motion by appellee to dismiss will be granted. *Rosemond v. McPherson*, 156 N. C. 593, 72 S. E. 570; *In re Bailey*, 180 N. C. 30, 103 S. E. 896.

Where an appellant knew that his brief must be prepared, printed, and filed by noon of a certain day, and he took no steps to this end, a motion to dismiss the appeal under rule 17 will be granted. *Truelove v. Norris*, 152 N. C. 755, 67 S. E. 487.

Same—Delay in Docketing Transcript.—Although the transcript was not docketed till the Saturday preceding the Tuesday on which the brief should have been filed, yet, it not being clear that a brief could not be printed in one or two days, and appellant not having moved during the week preceding the call for longer time in which to print the brief, and not having had it printed at the time of the call, when the appeal was dismissed, his subsequent motion to reinstate will not be granted. *Calvert v. Carstarphen*, 133 N. C. 25, 45 S. E. 353.

When Cause Docketed Too Late for Hearing.—Where a cause was docketed too late for hearing at a term of the Supreme Court, a motion to dismiss for failure to file printed briefs must be denied. *Gupton v. Sledge*, 161 N. C. 213, 76 S. E. 527; *Bumgarner v. Thornton Light, etc., Co.* (N. C.), 76 S. E. 528; *McLean v. McDonald*, 175 N. C. 418, 95 S. E. 769.

When Appellant Must Discuss Appellees' Exceptions.—On an appeal from an order of a trial judge setting aside a verdict of the jury in favor of the plaintiff because of error committed against the defendant, the brief of appellant must refer to exceptions taken by defendant. *Powers v. Wilmington*, 177 N. C. 361, 99 S. E. 102.

Failure to File Brief.—Where an appellant failed to file a brief in the Supreme Court, as required by this rule, upon motion of the Attorney-General the appeal of the appellant was held properly dismissed. *State v. Pelley*, 222 N. C. 684, 687, 24 S. E. (2d) 635.

An appeal will be dismissed upon motion of the Attorney-General for failure of defendant to file a brief, but when defendant has been convicted of a capital felony this will be done only after a careful examination of the record fails to disclose material defect. *State v. Sturdivant*, 220 N. C. 535, 17 S. E. (2d) 661; *State v. Peele*, 220 N. C. 83, 16 S. E. (2d) 449.

Exceptions Not Discussed Deemed Abandoned.—It is necessary that exceptions appearing in the record on appeal be mentioned in appellant's brief, with reason or argument to support them, to entitle them to be considered by the court, for otherwise they are taken as abandoned. *In re Fuller*, 189 N. C. 509, 127 S. E. 549; *State v. Barnhill*, 186 N. C. 446, 119 S. E. 894; *Austin v. Crisp*, 186 N. C. 616, 120 S. E. 199. See *State v. Wells*, 209 N. C. 358, 183 S. E. 282; *Stephenson v. Honeycutt*, 209 N. C. 701, 184 S. E. 482; *Sparks v. Holland*, 209 N. C. 705, 184 S. E. 552; *Hicks v. Nivens*, 210 N. C. 44, 185 S. E. 469; *Taylor v. Rierson*, 210 N. C. 185, 185 S. E. 627; *Texas Co. v. Elizabeth City*, 210 N. C. 454, 187 S. E. 551; *Wilson v. Williams*, 215 N. C. 407, 2 S. E. (2d) 19; *In re Escoffery*, 216 N. C. 19, 3 S. E. (2d) 425; *State v. Cox*, 217 N. C. 177, 7 S. E. (2d) 473; *Rose v. Bank of Wadesboro*, 217 N. C. 600, 9 S. E. (2d) 2; *State v. Gibson*, 221 N. C. 252, 20 S. E. (2d) 51; *Brown v. Ward*, 221 N. C. 344, 20 S. E. (2d) 324; *Moyle v. Hopkins*, 222 N. C. 33, 21 S. E. (2d) 826; *Bank of Pilot Mountain v. Snow*, 221 N. C. 14, 18 S. E. (2d) 711; *State v. Howley*, 220 N. C. 113, 16 S. E. (2d) 705.

Mere reference to exceptions of record made in the brief, without argument or citation of authority, is not a compliance with this rule. *Ingle v. Southern Ry. Co.*, 167 N. C. 636, 83 S. E. 744.

Exceptions not set up in the appellant's brief, or in support of which no reason or argument is stated or authority cited, will be taken as abandoned. *Gray v. Cartwright*, 174 N. C. 49, 93 S. E. 432. See *State v. Tate*, 210 N. C. 613, 188 S. E. 91.

Statements made in appellant's brief, that he has ten assignments of error and insists upon them all, do not come within this rule, and they will not be considered; the requirements being that there must be some reason or argument in their support set out in the brief. *Watkins v. Lawson*, 166 N. C. 216, 81 S. E. 623.

Exceptions in the record not set out in the appellant's brief, or in support of which no reason or argument is stated or authority cited, will be taken as abandoned. *Ludford v. Combs*, 195 N. C. 851, 141 S. E. 541; *Hyatt v. McCoy*, 194 N. C. 760, 762, 140 S. E. 807; *Andrews Music Store v. Boone*, 197 N. C. 174, 175, 148 S. E. 39; *Grant v. Tallassee Power Company*, 196 N. C. 617, 146 S. E. 531.

Where defendants not only assign as error the several conclusions of law upon which the judgment below is founded, and the judgment, but except to and assign as error the findings of fact made by the court upon which the conclusions of law are based, yet in their brief they challenge only the correctness of the conclusions of law and the judgment, under this rule the exception to the findings of fact will be taken as abandoned, leaving for consideration the

challenge to the conclusions of law and judgment. *Amick v. Coble*, 222 N. C. 484, 489, 23 S. E. (2d) 854.

Same—Question Discussed in Oral Argument.—A question discussed on oral argument, but not embraced in the assignments of error referred to in the brief, will not be considered. *Mitchem v. Mitchem*, 169 N. C. 48, 85 S. E. 146.

Where briefs do not contain the exceptions and assignments of error, properly numbered, with references to the printed record, they do not conform to the rules. It is impossible to determine just what exceptions or assignments of error are referred to. *State v. Newton*, 207 N. C. 323, 177 S. E. 184.

Defendant's brief should designate the assignments of error discussed by number with reference to the printed pages of the transcript, and authorities relied on should be classified under each of the assignments. *State v. Abernethy*, 220 N. C. 226, 17 S. E. (2d) 25.

Effect of Failure to Set Forth Exceptions and Assignments of Error.—The exceptions and assignments of error were not set forth in defendant appellant's brief. This is tantamount to the admission that the evidence was sufficient to be submitted to the jury. *State v. Walls*, 211 N. C. 487, 492, 191 S. E. 232.

Failure to Furnish Appellee with Copy of Brief.—The appellee may not successfully move in the Supreme Court to have the case dismissed for the failure of the appellant to furnish him a copy of his briefs when the brief was duly filed with the clerk under the rule, and he could have obtained one in the time prescribed by applying to the clerk, who is not under duty to either notify him or supply him a copy except at his request. *Turnage v. Dunn*, 196 N. C. 105, 144 S. E. 521.

Applied in *Merrimon v. Lyman*, 124 N. C. 434, 32 S. E. 732; *Smith v. Atlantic, etc., R. Co.*, 142 N. C. 21, 54 S. E. 786; *Liles v. Lumber Co.*, 142 N. C. 39, 54 S. E. 795; *Johnson, etc., R. Co. v. South, etc., R. Co.*, 148 N. C. 59, 61 S. E. 683; *Rushing v. Seaboard, etc., R. Co.*, 149 N. C. 158, 62 S. E. 890; *White v. Lane*, 153 N. C. 14, 68 S. E. 895; *Edwards v. Price*, 162 N. C. 243, 78 S. E. 145; *State v. Smith*, 164 N. C. 475, 79 S. E. 979; *In re Parker*, 165 N. C. 130, 80 S. E. 1057; *Lloyd v. Southern R. Co.*, 166 N. C. 24, 81 S. E. 1003; *Lynch v. Rosemary Mfg. Co.*, 167 N. C. 98, 83 S. E. 6; *Ingle v. Southern R. Co.*, 167 N. C. 636, 83 S. E. 744; *Winborne Guano Co. v. Plymouth Mercantile Co.*, 168 N. C. 223, 84 S. E. 272; *Starnes v. Raleigh, etc., R. Co.*, 170 N. C. 222, 87 S. E. 43; *Estes v. Rash*, 170 N. C. 341, 87 S. E. 109; *Campbell v. Sigmon*, 170 N. C. 348, 87 S. E. 116; *Lovelace v. Atlantic, etc., R. Co.*, 172 N. C. 12, 89 S. E. 797; *State v. Bryson*, 173 N. C. 803, 92 S. E. 698; *Gray v. Cartwright*, 174 N. C. 49, 93 S. E. 432; *Borden v. Carolina Power, etc., Co.*, 174 N. C. 72, 93 S. E. 442; *State v. Coble*, 177 N. C. 588, 99 S. E. 339; *Allen v. Reidsville*, 178 N. C. 513, 101 S. E. 267; *Hill v. Aman*, 181 N. C. 483, 106 S. E. 214; *Baker v. Winslow*, 184 N. C. 1, 113 S. E. 570; *Harrison v. Norfolk Southern R. Co.*, 184 N. C. 86, 113 S. E. 678; *Wooley v. Bruton*, 184 N. C. 438, 114 S. E. 628; *Bunn v. Dunn*, 185 N. C. 108, 116 S. E. 172; *Avery County Bank v. Smith*, 186 N. C. 635, 120 S. E. 215; *In re Westfield's Will*, 188 N. C. 702, 125 S. E. 531; *State v. Hopkins*, 217 N. C. 324, 7 S. E. (2d) 566; *Sills v. Morgan*, 217 N. C. 662, 9 S. E. (2d) 518.

Cited in *Caldwell v. Southern Ry. Co.*, 218 N. C. 63, 10 S. E. (2d) 680; *State v. Murray*, 216 N. C. 681, 6 S. E. (2d) 513; *State v. Hendricks*, 207 N. C. 873, 178 S. E. 557; *State v. Kinyon*, 210 N. C. 294, 186 S. E. 368; *State v. Ward*, 222 N. C. 316, 22 S. E. (2d) 922; *Gordon v. Calhoun Motors*, 222 N. C. 398, 23 S. E. (2d) 325; *State v. Reddick*, 222 N. C. 520, 23 S. E. (2d) 909.

29. Appellee's Brief

The appellee shall file 25 printed or mimeographed briefs with the clerk of this Court by noon of Saturday preceding the call of the district to which the case belongs and the same shall be noted by the clerk on his docket and a copy furnished by the clerk, on application, to counsel for appellant. It is not required that the appellee's brief shall contain a statement of the case. On failure of the appellee to file his brief by the time required, the cause will be heard and determined without argument from appellee unless for good cause shown the Court shall give appellee further time to file his brief.

Appellee's Brief Dismissal When Not Filed in Time.—

Upon motion of appellant aptly made at the call of the district to which the case belongs, the appellee's brief will be dismissed if not filed on the preceding Saturday by noon, and disposed of without argument by appellee, unless for good cause shown, the time should be extended. *Phillips v. Junior Order U. A. M.*, 175 N. C. 133, 95 S. E. 91.

Contents of Appellee's Brief.—All material exceptions not abandoned by appellants should be considered with care, and appellee's counsel should call court's attention to such portions of the record as tend to sustain the validity of the trial. *Marshall v. Interstate Tel., etc., Co.*, 181 N. C. 410, 107 S. E. 498.

30. Arguments

(1) The counsel for the appellant shall be entitled to open and conclude the argument.

(2) Counsel for appellant may be heard ten minutes for statement of case and thirty minutes in argument.

(3) Counsel for appellee may be heard thirty minutes.

(4) The time for argument may be extended by the Court in a case requiring such extension, but application for extension must be made before the argument begins. The Court, however, may direct the argument of such points as it may see fit outside of the time limited.

(5) Any number of counsel may be heard on either side within the limit of the time above specified; but if several counsel shall be heard, each must confine himself to a part or parts of the subject matter involved in the exceptions not discussed by his associate counsel, unless directed otherwise by the Court, so as to avoid tedious and useless repetition.

31. Rearguments

The Court will, of its own motion, direct a reargument before deciding any case, if in its judgment it is desirable.

Court May Order Reargument.—It is the duty of parties to see that their causes are fully argued in the Supreme Court, and where this has not been—especially where the record is voluminous and assignments of error indefinite—the court will require it to be reargued. *Lenoir v. Valley River Mining Co.*, 104 N. C. 490, 10 S. E. 525.

Petition Need Not Be Filed.—Where a new trial is granted without passing upon certain exceptions, and, upon a rehearing of the exceptions upon which new trial was granted, is reversed, the Supreme Court may order a reargument of the exceptions not passed upon, without a petition for the same being filed. *Fleming v. Southern R. Co.*, 132 N. C. 714, 44 S. E. 551.

32. Agreements of Counsel

The Court will not recognize any agreement of counsel in any case unless the same shall appear in the record, or in writing, filed in the cause in this Court.

Verbal Agreements Not Considered When Denied.—The Supreme Court will not consider appellant's alleged verbal agreement between the parties when such is denied. *McNeil v. Virginia-Carolina R. Co.*, 173 N. C. 729, 92 S. E. 484, and cases there cited. *Brewer v. Mineola Mfg. Co.*, 161 N. C. 211, 76 S. E. 237; *Standard Mirror Co. v. Philadelphia Casualty Co.*, 157 N. C. 28, 72 S. E. 826.

When it appears in the Supreme Court that appellant has not served his case on appeal in time, no agreement for further extension thereof will be considered, unless it is in writing or appears by an entry on the record. *Standard Mirror Co. v. Philadelphia Casualty Co.*, 157 N. C. 28, 72 S. E. 826; *State v. Black*, 162 N. C. 637, 78 S. E. 210.

33. Appearances

An attorney shall not be recognized as appearing in any case unless he be entered as counsel of record in the case. Upon his request, the clerk shall enter the name of such attorney, or he may

enter it himself, thereby making him counsel of record for the party he may designate therein. Such appearance of counsel shall be deemed to be general in the case, unless a different appearance be indicated. Counsel of record are not permitted to withdraw from a case, except by leave of the Court.

34. Certiorari

(1) When Applied for.—Generally, the writ of certiorari, as a substitute for an appeal, must be applied for at the term of this Court to which the appeal ought to have been taken, or, if no appeal lay, then before or to the term of this Court next after the judgment complained of was entered in the Superior Court. If the writ shall be applied for after that term, sufficient cause for the delay must be shown.

(2) How Applied for.—The writs of certiorari and supersedeas shall be granted only upon petition, specifying the grounds of application therefor, except when a diminution of the record shall be suggested and it appears upon the face of the record that it is manifestly defective, in which case the writ of certiorari may be allowed, upon motion in writing. In all other cases the adverse party may answer the petition. The petition and answer must be verified, and the application shall be heard upon the petition, answer, affidavit, and such other evidence as may be pertinent.

(3) Notice of.—No such petition or motion in the application shall be heard unless the petitioner shall have given the adverse party ten days notice, in writing, of the same; but the Court may, for just cause shown, shorten the time for such notice.

Cross Reference.—As to certiorari generally, see G. S. § 1-269 and notes thereto.

When Certiorari Should Be Applied for.—Where the appellant can show good and sufficient cause why his case on appeal had not been docketed in the Supreme Court in the time required by the rules, or that he was not therein at fault, he should file a transcript of the record proper and move for a certiorari for the statement of the case, which may be done at any time during the term before appellee moves to dismiss it. *McNeil v. Virginia-Carolina R. Co.*, 173 N. C. 729, 92 S. E. 484. *Rose v. Rocky Mount*, 184 N. C. 609, 113 S. E. 506.

Not a Matter of Right.—Where the record of a case on appeal is not docketed in the Supreme Court at the time required by rule 5, it will be dismissed, but the Court may, in its discretion and not as a matter of right of the appellant, grant further time for the filing of the record, if the appellant files the record proper in apt time and thereupon moves for a certiorari, showing that the delay was not attributable to himself. *State v. National Surety Co.*, 192 N. C. 52, 133 S. E. 172; *Pruitt v. Wood*, 199 N. C. 788, 156 S. E. 126.

When he has depended solely upon a void order of the trial judge extending the time for the service of his case, which is excepted to, the case will be dismissed. *State v. Crowder*, 195 N. C. 335, 142 S. E. 222.

Legal Excuse Decided by Supreme Court.—Whether the appellant has legal excuse in not docketing his case on appeal in time for it to be regularly heard at the call of the district to which it belongs is a matter for the Supreme Court to determine upon his docketing the record proper and moving for a certiorari under the rule. *State v. Johnson*, 183 N. C. 730, 110 S. E. 782.

Motion Too Late after Argument.—Where the plaintiff's motion for a certiorari was disallowed at a former term of the Supreme Court without prejudice, for the purpose of allowing him to renew his motion after he had applied to the trial judge to correct the case, the plaintiff should again move the court for a writ before the call of the district to which the case belonged, and it comes too late after argument of the case. *Todd v. Mackie*, 160 N. C. 352, 76 S. E. 245.

Motion Denied after Appeal Dismissed.—A motion for a certiorari to bring up the case on appeal will be denied if made after the appellee has had it docketed and dismissed under Rule 17. *Cox v. Kinston Carolina R., etc., Co.*, 177 N. C. 227, 98 S. E. 704.

Application for Certiorari.—Where the appellant in a criminal action has failed to have his case docketed in the time required by the Rules of Practice in the Supreme Court, in order to preserve his right to appeal it is required that he file an application for a certiorari, addressed to the sound discretion of the Supreme Court, and show a good and sufficient reason for granting his motion therefor, and where this has not been done the appeal will be dismissed upon motion of the State. *State v. Harris*, 199 N. C. 377, 154 S. E. 628.

Appellant Must Docket All Available Record.—When the appeal is not docketed at or before the time prescribed in Rule 5 the appellant must docket all of the record proper, or so much thereof as he can obtain, with an affidavit, as to why the entire record can not be docketed and move at that time for a certiorari. If he fails to do so, the appellee has the right to docket the certificate prescribed by Rule 17 and have the appeal dismissed. *Caudle v. Morris*, 158 N. C. 594, 74 S. E. 98; *State v. Johnson*, 183 N. C. 730, 110 S. E. 782; *Hardy v. Heath*, 188 N. C. 271, 124 S. E. 564.

Appellant's motion for a writ of certiorari will be denied where the petition is not verified and no transcript of the record has been filed nor, any good reason shown for failure to file it. *Rothchild v. McNichol*, 121 N. C. 284, 28 S. E. 364; *Critz v. Sprager*, 121 N. C. 283, 28 S. E. 365.

In order to support a motion for certiorari it is required that appellant file transcript of the record proper and give appellee notice of the motion, and appellee's transcript of record filed on motion to docket and dismiss, under rule 17, cannot avail the appellant on his motion for certiorari. *Hinnant v. American Fire, etc., Ins. Co.*, 204 N. C. 306, 168 S. E. 199.

Filing of Original Papers Insufficient.—A transcript of the record proper should be filed by appellant in the Supreme Court to entitle him to move for a certiorari; and the filing of the original papers, which should remain in the office of the Superior Court, is insufficient. *Lindsey v. Knights of Honor*, 172 N. C. 818, 90 S. E. 1013.

Writ Not Applied for at First Term.—Where the transcript is not filed at the first term after trial, on the failure of the appellant to apply at such term for a writ of certiorari to procure it, he is not entitled to such writ. *Graham v. Edwards*, 114 N. C. 228, 19 S. E. 150; *Haynes v. Coward*, 116 N. C. 840, 21 S. E. 690; *State v. Dawkins*, 190 N. C. 443, 129 S. E. 814.

Due Diligence Shown by Party.—If it appears that the unexpected indisposition of the clerk of the Superior Court was the cause of the failure to docket an appeal in time at the next ensuing term of this court, and that appellant was not guilty of any lack of diligence, and that he promptly applied for a certiorari, the writ should be granted. *Howerton v. Henderson*, 86 N. C. 718.

Effect of Agreement for Extension of Time.—Where the parties have agreed upon such extension of time for the service of their respective cases on appeal that the delay will cause the docketing of the case too late to come within the rule, the appellant having used his full time may not successfully move in the Supreme Court for a certiorari upon the ground that the delay was caused by a loss of the papers in it, for which he was not responsible, without proof sufficient to overcome evidence in denial of the allegation. *Baker v. Hare*, 192 N. C. 788, 136 S. E. 113.

Question of Laches May Be Heard.—Where the appellant asserts that he is not in default in docketing his appeal in the time required by the rule, he may apply for a certiorari to bring up the transcript of the case, or the omitted part, and thus only have the question of his laches therein passed upon. *Stone v. Ledbetter*, 191 N. C. 777, 133 S. E. 162.

Where an appeal was dismissed because not docketed before the perusal of the district to which it belongs, and appellant moved to reinstate on the allegation that he had directed the Clerk to send up the transcript and paid the fees therefor in advance, the motion will be denied, for, although such allegation would have been a sufficient answer to the motion to dismiss if affidavit had been filed to such effect and a certiorari applied for, yet it was laches not to interpose such affidavit and show excuse for the failure. *Paine v. Cureton*, 114 N. C. 606, 19 S. E. 631.

When Case on Appeal Not Prepared.—Where a case and counter case are served within the time as extended by agreement, but neither is accepted, appellant must immediately request a settlement, file the record proper, and

sue out certiorari; otherwise appellee may move to docket and dismiss under rule 17. *Waynesville Transp. Co. v. Waynesville Lumber Co.*, 168 N. C. 60, 84 S. E. 54; *Washam, etc., Motor Co. v. Reep*, 186 N. C. 509, 119 S. E. 821.

Certiorari Denied When Case Unsettled by Agreement.—Where the parties to an action have agreed, or the judge at their request has allowed an extension of time for service of case and counter-case, etc., that will prevent its being docketed in the time prescribed by Rule 5, and consequently no case has been settled by the trial judge, appellant's motion in the Supreme Court for a writ of certiorari will be denied. *Waller v. Dudley*, 193 N. C. 354, 137 S. E. 149.

When Appellee Prevents Docketing of Appeal.—Where the appellant is prevented from docketing his appeal within the time prescribed by Rule 5, in consequence of the conduct of the appellee or his counsel, he is entitled to the writ of certiorari to bring up the case. *Briggs v. Jervis*, 98 N. C. 454, 4 S. E. 631.

Failure to Pay Clerk's Fees.—The failure of the Clerk below to send up the transcript after the case on appeal had been filed in his office will not excuse appellant's failure to have the transcript or case on appeal filed, where there is no allegation that the appellant had tendered the fees for such transcript and was otherwise free from laches. *Critz v. Sparger*, 121 N. C. 283, 28 S. E. 365.

Extent of Waiver by Consent.—The parties to an appeal, without the consent of the court, cannot waive the rule of the Supreme Court requiring that a transcript of the record proper, or all thereof that may be had, shall be filed therein as the basis for the motion for a certiorari; but they may, by written agreement, consent that the appeal may be docketed at the next ensuing term of the Supreme Court. *Murphy v. Carolina Electric Co.*, 174 N. C. 782, 93 S. E. 456.

May Docket Appeal Though Certiorari Denied.—Although appellant's motion for a writ of certiorari is denied, he may docket his appeal during the term, or, if the case was tried since the term to which the appeal is taken began, he may docket it at the next term. *Rothchild v. McNichol*, 121 N. C. 284, 28 S. E. 364; *Critz v. Sparger*, 121 N. C. 283, 28 S. E. 365.

Applied in *Causey v. Snow*, 116 N. C. 497, 21 S. E. 179; *Brown v. House*, 119 N. C. 622, 26 S. E. 160; *Burrell v. Hughes*, 120 N. C. 277, 26 S. E. 782; *Parker v. Southern Ry. Co.*, 121 N. C. 501, 23 S. E. 347; *Rothchild v. McNichol*, 121 N. C. 284, 28 S. E. 364.

35. Additional Issues

If, pending the consideration of an appeal, the Supreme Court shall consider the trial of one or more issues of fact necessary to a proper decision of the case upon its merits, such issues shall be made up under the direction of the Court and certified to the Superior Court for trial, and the case will be retained for that purpose.

Cross Reference.—As to power of Supreme Court to remand case for amendment, or for the taking of additional testimony, see § 7-13.

36. Motions

All motions made to the Court must be reduced to writing, and shall contain a brief statement of the facts on which they are founded, and the purpose of the same. Such motions, not leading to debate nor followed by voluminous evidence, may be made at the opening of the session of the Court.

Only Motions in Writing Entertained.—This Court will not entertain any motion, unless reduced to writing. *McCoy v. Lassiter*, 94 N. C. 131.

37. Abatement and Revivor

Whenever, pending an appeal to this Court, either party shall die, the proper representative in the personalty or realty of the deceased party, according to the nature of the case, may voluntarily come in, and, on motion, be admitted to become parties to the action, and thereupon the appeal shall be heard and determined as in other causes; and if such representatives shall not so

voluntarily become parties, then the opposing party may suggest the death upon the record, and thereupon, on motion, obtain an order that, unless such representatives shall become parties within the first five days of the ensuing term, the party moving for such order shall be entitled to have the appeal dismissed; or, if the party moving shall be the appellant, he shall be entitled to have the appeal heard and determined according to the course of the Court: Provided, such order shall be served upon the opposing party.

When the death of a party is suggested, and the proper representatives of the deceased fail to appear by the fifth day of the term next succeeding such suggestion, and no action shall be taken by the opposing party within the time to compel their appearance, the appeal shall abate, unless otherwise ordered.

Where a party dies pending appeal, his personal representative will be made a party by order of the Court. *First, etc., Nat. Bank v. Toxey*, 210 N. C. 470, 187 S. E. 553.

When a party dies pending appeal, his administratrix will be substituted as a party upon motion. *Peterson v. McLamb*, 221 N. C. 538, 19 S. E. (2d) 488.

38. Certification of Decisions

The clerk shall, on the first Monday in each month, transmit, by some safe hand, or by mail to the clerks of the Superior Courts, certificates of the decisions of the Supreme Court which shall have been on file ten days, in cases sent from said court. General Statutes, § 7-16. But the Court in its discretion may order an opinion certified down at an earlier day. Upon final adjournment of the Court, the clerk shall at once certify to the Superior Courts all of the decisions not theretofore certified.

Cross Reference.—As to the certification upon appeals from interlocutory orders, see G. S. § 7-12.

39. Judgment and Minute Dockets

The judgment docket of this Court shall contain an alphabetical index of the names of the parties in favor of whom and against whom any judgment for costs or judgment interlocutory or upon the merits is entered. On this docket the clerk of the Court will enter a brief memorandum of every final judgment affecting the right to real property, and of every judgment requiring, in whole or in part, the payment of money, stating the names of the parties, the term at which such judgment was entered, its number on the docket of the Court; and when it shall appear from the return on the execution, or from an order for entry of satisfaction by this Court, that the judgment has been satisfied, in whole or in part, the clerk, at the request of any one interested in such entry, and on the payment of the lawful fee, shall make a memorandum of such satisfaction, whether in whole or in part, and refer briefly to the evidence of it.

The clerk shall keep a Permanent Minute-Book, containing a brief summary of the proceedings of this Court in each appeal disposed of.

Cited in Corporation Comm. v. Railroad, 137 N. C. 1, 29, 49 S. E. 191.

40. Clerk and Commissioners

The clerk and every commissioner of this court who, by virtue or under color of any order, judg-

ment, or decree of the Supreme Court in any action or matter pending therein, has received or shall receive any money or security for money, to be kept or invested for the benefit of any party to such action or matter, or of any other person, shall, at the term of said Court held next after the first day of January in each year, report to the Court a statement of said fund, setting forth the title and number of the action or matter, the term of the Court at which the order or orders under which the clerk or such commissioner professes to act was made, the amount and character of the investment, and the security for same, and his opinion as to the sufficiency of such security. In every subsequent report he shall state the condition of the fund and any change made in the amount or character of the investment, and every payment made to any person entitled thereto.

The reports required by the preceding paragraph shall be examined by the Court or some member thereof, and their or his approval indorsed shall be recorded in a well bound book, kept for the purpose, in the office, of the clerk of the Supreme Court, entitled "Record of Funds," and the cost of recording the same shall be allowed by the Court and paid out of the fund. The report shall be filed among the papers of the action or matter to which the fund belongs.

Cross References.—As to the clerk's bond, see G. S. § 7-27. As to duty of clerk to report money on hand, see G. S. § 7-28.

41. Librarian

(1) Report by Him. The Librarian shall keep a correct catalogue of all books, periodicals, and pamphlets in the Library of the Supreme Court, and report to the Court on the first day of the Spring Term of each year what books have been added to the Library during the year next preceding his report, by purchase or otherwise, and also what books have been lost or disposed of, and in what manner.

(2) Books Taken Out. No book belonging to the Supreme Court Library shall be taken therefrom, except in the Supreme Court chamber, unless by the Justices of the Court, the Governor, the Attorney-General, or the head of some department of the executive branch of the State Government, without the special permission of the Marshal of the Court, and then only upon the application in writing of a judge of a Superior Court holding court or hearing some matter in the city of Raleigh, the President of the Senate, the Speaker of the House of Representatives, or the chairman of the several committees of the General Assembly; and in such cases the Marshal shall enter in a book kept for the purpose the name of the officer requiring the same, the name and number of the volume taken, when taken, and when returned.

42. Court's Opinions

After the Court has decided a cause, the judge assigned to write it shall hand the opinion, when written, to the clerk, who shall cause seven type-written copies to be at once made and a copy sent in a sealed envelope to each member of the Court, to the end, that the same may be carefully examined, and the bearing of the authority cited may be considered prior to the day when the

opinion shall be finally offered for adoption by the Court and ordered to be filed.

Cross Reference.—As to requiring judgments to be written, see G. S. § 7-15.

43. Executions

(1) **Teste of Executions.** When an appeal shall be taken after the commencement of a term of this Court, the judgment and teste of the execution shall have effect from the time of the filing of the appeal.

(2) **Issuing and Return of.** Executions issuing from this Court may be directed to the proper officers of any county in the State. At the request of a party in whose favor execution is to be issued, it may be made returnable on any specified day after the commencement of the term of this Court next ensuing its teste. In the absence of such request, the Clerk shall, within thirty days after the certificate of opinion is sent down, issue such execution to the county from which the cause came, making it returnable on the first day of the next ensuing term. The execution may, when the party in whose favor judgment is rendered shall so direct, be made returnable to the term of the Superior Court of said county held next after the date of its issue, and thereafter successive executions will only be issued from said Superior Court, and when satisfied, the fact shall be certified to this Court, to the end that an entry to this effect be made here.

Executions for the costs of this Court, adjudged against the losing party to appeals, may be issued after the determination of the appeal, returnable to a subsequent day of the term; or they may be issued after the end of the term, returnable, on a day named, at the next succeeding term of this Court.

The officer to whom said executions are directed shall be amenable to the penalties prescribed by law for failure to make due and proper return thereof.

Cross References.—As to execution generally, see G. S. § 1-302 et seq. As to judgments on appeal, see G. S. § 1-297. As to stay of execution, see G. S. § 1-293 et seq.

Execution a Lien from Its Teste.—An execution issuing from the Supreme Court, upon a judgment obtained therein, to a county in which the defendant has land, is a lien upon the land from its teste. *Rhyné v. McKee*, 73 N. C. 259.

Cited in *Corporation Comm. v. Railroad*, 137 N. C. 29, 49 S. E. 191.

44. Petition to Rehear

(1) **When Filed.** Petitions to rehear must be filed within forty days after the filing of the opinion in the case. No communication with the Court, or any Justice thereof, in regard to any such petition, will be permitted under any circumstances. No oral argument or other presentation of the cause to the Court, or any Justice thereof, by either party, will be allowed, unless on special request the Court shall so order.

Cross Reference.—As to the petition to rehear generally, see G. S. § 7-18.

Rule Mandatory.—The requirement that a petition for a rehearing be filed within forty days after the filing of the opinion in the case is mandatory upon all litigants alike, and will be rigidly enforced. *Cooper v. Board of Comm'rs*, 184 N. C. 615, 113 S. E. 569.

Time of Filing Affidavit in Support of Motion.—Where the Supreme Court, on appeal, has allowed a motion for a new trial for newly discovered evidence after having fixed a time in which the parties may file their affidavit in support of the motion and per contra, the Court will not there-

after allow a motion retaining the case on its docket for the purpose of correcting the amount of the judgment. *Moore v. Tidwell*, 194 N. C. 186, 138 S. E. 541.

When Time Begins to Run.—The time begins to run against a petition to rehear in the Supreme Court from the time the opinion was filed in the office of the clerk of that Court. *McGeorge v. Nicola*, 173 N. C. 733, 92 S. E. 610.

Distinction Between Filing and Docketing.—The petition is said to be filed when it is received by the clerk, and this must be done within forty days after the filing of the opinion; it is docketed when the clerk enters it upon the records at the order of the Justice, who grants the rehearing. *Bird v. Gilliam*, 123 N. C. 63, 31 S. E. 267.

(2) **What to Contain.** The petition must assign the alleged error of law complained of, or the matter overlooked, or the newly discovered evidence; and allege that the judgment complained of has been performed or secured. Such petition shall be accompanied with the certificate of at least two members of the bar of this Court, who have no interest in the subject matter and have not been of counsel for either party to the suit, and each of whom shall have been at least five years a member of the bar of this Court, that they have carefully examined the case and the law bearing thereon and the authorities cited in the opinion, and they shall summarize succinctly in such certificate the points in which they deem the opinion erroneous.

Failure to File Certificate.—Where the applicant has failed to file the certificates of two disinterested members of the bar, indorsed by two members of the Court, the application will not be considered, except in certain instances where the Court may reconsider the case *ex meru motu*. *Teeter v. Southern Express Co.*, 172 N. C. 620, 90 S. E. 927.

(3) **Two Copies to Be Filed, How Endorsed.** The petitioner shall endorse upon the petition, of which he shall file two copies, the names of the two Justices, neither of whom dissented from the opinion, to whom the petition shall be referred by the clerk, and it shall not be docketed for rehearing unless both of said Justices endorse thereon that it is a proper case to be reheard: Provided, however, that when there have been three dissenting Justices, it shall be sufficient for the petitioner to file only one copy of the petition and designate only one Justice, and his approval in such case shall be sufficient to order the petition docketed.

The clerk shall, upon the receipt of a petition to rehear, immediately deliver a copy to each of the Justices to whom it is to be referred, unless the petition is received during a vacation of the Court, in which event it shall be delivered to the Justice designated by the petitioner on the first day of the next succeeding term of Court.

(4) **Justices to Act in Thirty Days.** The clerk shall enter upon the rehearing docket and upon the petition the date when the petition is filed in the clerk's office, the names of the Justices to whom the petitioner has requested that the petition be referred, and also the date when the petition is delivered to each of the Justices. The Justices will act upon the petition within thirty days after it is delivered to them, and the clerk is directed to report in writing to the Court in conference all petitions to rehear not acted on within the time required.

When Rehearing Allowed.—No case will be reviewed upon petition to rehear, unless it was decided hastily and some material point was overlooked, or some direct authority was not called to the attention of the court. *Haywood v.*

Daves, 81 N. C. 8; Mullen v. Norfolk, etc., Canal Co., 115 N. C. 15, 20 S. E. 167.

In an action for construction of a will, a former decision of this court, rendered when the court was differently constituted from what it is at present, should not be reversed because the present members of the court might infer differently as to the intention of the testatrix from the words and context of the will. *Devereux v. Devereux*, 81 N. C. 12.

This petition to rehear having been fully and carefully considered, and it appearing that the errors assigned have already passed upon in well considered opinions of this Court, and no new fact has been called to the attention of the Court, or new case or authority cited, or new position assumed, the petition is dismissed. *Weston v. Roper Lumber Co.*, 168 N. C. 98, 83 S. E. 693.

Rehearing a Matter of Discretion.—Unlike an appeal, a petition to rehear is a matter in the discretion of the Supreme Court to be exercised under the rules prescribed by it. *Moore v. Harkins*, 179 N. C. 525, 103 S. E. 12.

Presumption in Favor of Judgment.—Rehearings of decisions of cases of this Court are granted only in exceptional cases and, when granted, every presumption is in favor of the judgment already rendered. *Weisel v. Cobb*, 122 N. C. 67, 30 S. E. 312.

Rehearing by Means of Second Appeal Not Allowed.—A second appeal on matters determined by a decision on a former appeal will not be considered, the procedure being by a motion to rehear. *Gainesville, etc., Hospital Ass'n v. Atlantic Coast Line R. Co.*, 157 N. C. 460, 73 S. E. 242; *Larogue v. Kennedy*, 161 N. C. 459, 77 S. E. 695.

Where a carrier does not take the proper steps to have a judgment rendered against it in the State court reviewed in the United States court upon a defense set up in denial of its rights under the Federal law, and seeks to enjoin the enforcement of the judgment in the State courts, it is an endeavor to obtain a rehearing of the case by means of a second suit, which is not permissible. *North Carolina R. Co. v. Story*, 187 N. C. 184, 121 S. E. 433.

Same State of Facts Will Not Warrant Second Appeal.—A party to an action may not have the decision of the Supreme Court again reviewed by it, upon a second appeal, upon the same state of facts, the former decisions having become the law of the case. *Strunks v. Southern R. Co.*, 188 N. C. 567, 125 S. E. 182.

No Rehearing on Summary Motion.—A rehearing will not be granted upon a summary motion to modify a final judgment of this court. *Ruffin v. Harrison*, 91 N. C. 398.

Only Points Certified as Erroneous Considered.—Upon a rehearing, the Supreme Court will not consider any point not certified as erroneous by counsel making the certificate. *Kerr v. Hicks*, 133 N. C. 175, 45 S. E. 529.

When Conclusion Assigned as Error.—It is unnecessary to consider a broadside assignment of error in a petition to rehear, "for that, granting the correctness of every legal proposition laid down by the Court, and that its findings and inferences of fact were supported by the record, yet the conclusion reached by the Court in its opinion is erroneous." *Bunn v. Braswell*, 142 N. C. 113, 55 S. E. 85.

When Error Committed in Former Decision.—The doctrine of stare decisis has no application, when it clearly appears that error has been committed in the decision of the former case by the Supreme Court; and where the exceptions present, on the second appeal, under different and somewhat similar statutes, the question as to whether a mandamus will lie for the failure of the county commissioners to make a special levy for the payment of the principal of the sinking funds for road bonds of a certain district, and the Supreme Court has erroneously decided that it was unnecessary as to another road district within the same county, on the appeal in the later case the position is untenable, that it was an attempt to obtain a rehearing contrary to the rules on the subject. *Spitzer & Co. v. Commissioners*, 188 N. C. 30, 123 S. E. 636.

When Petitioner Guilty of Laches.—A petition to rehear a case in the Supreme Court will not be granted when the alleged error is attributable solely to the petitioner's own laches or want of attention in looking after his case or he has neglected to follow the rules of procedure necessary to a proper presentment thereof, and especially when there is nothing to warrant the assurance that substantial relief would otherwise be afforded him. *Battle v. Mercer*, 188 N. C. 116, 123 S. E. 258.

Immaterial Assumption.—It is no ground for the rehearing of a case that the defendant was assumed to be a citizen of North Carolina, whereas, in fact, he was not, when the place of his residence is immaterial. *Blackwell v. Wright*, 74 N. C. 733.

When Everything Considered on First Hearing.—Where neither the record nor the briefs on the rehearing of a case disclose anything that was not apparently considered on the first hearing, the former judgment will not be disturbed. *Weisel v. Cobb*, 122 N. C. 67, 30 S. E. 312.

New Trial for Newly Discovered Evidence.—A motion for a new trial, in the Supreme Court, upon the ground of newly discovered evidence, is a matter for the full Court, and will not be entertained after the case has been certified down, nor will an ungranted petition to rehear, made at the same time to the Justices of the Court, under the rule, put the case in the Supreme Court. *Smith v. Moore*, 150 N. C. 158, 63 S. E. 735.

Contents of Affidavit.—It is required for the granting of a motion for a new trial upon the ground of newly discovered evidence, that it should appear by affidavit that the desired testimony will be given upon the new trial; that it is probably true, competent, and material; that there has been no laches, but that the movant had used diligence and means to procure the evidence in due time at the trial; that the evidence is not cumulative and does not tend only to contradict, impeach, or discredit a witness who has testified, and is of such a nature as to show that probably a different result will be reached on another trial, so that right will prevail. *Johnson v. Seaboard Air Line R. Co.*, 163 N. C. 431, 79 S. E. 690, Ann. Cas. 1915B, 598.

In criminal actions, the Supreme Court will deny a motion for a new trial made upon the ground of newly discovered evidence. *State v. Griffin*, 190 N. C. 133, 129 S. E. 410.

New trial in criminal actions for newly discovered evidence.—When the judgment in a criminal action has been affirmed and certified to the clerk of the Superior Court, § 7-11, it is in the latter court for execution of the sentence, and a motion for new trial may be there entertained for disqualification of jurors and newly discovered evidence, G. S. § 15-174, and the motion is made in apt time if made at the next succeeding term after the case is certified down. *State v. Casey*, 201 N. C. 620, 161 S. E. 81.

When Petitioner Erroneously Deprived of Property.—Upon a petition to rehear, the case will be corrected when it appears that the petitioner has thereby been erroneously deprived of its property. *State v. Martin, etc., Casualty Co.*, 188 N. C. 119, 123 S. E. 631.

Omission of Questions Not Discussed in Brief.—A petition to rehear in the Supreme Court will be denied when founded upon the ground that a certain question was not mentioned in the opinion, when it had not been discussed in movant's brief according to Rule 28, and he has not appealed from the judgment. *Greene v. Lyles*, 187 N. C. 598, 122 S. E. 297.

When No Error Assigned.—Where no exception is taken in trial court to a ruling, and no error is assigned upon rehearing, the Supreme Court will not review the ruling. *Faison v. Grandy*, 128 N. C. 438, 38 S. E. 897.

Second Petition to Rehear.—Where a petition to rehear a case in the Supreme Court has been allowed, the opposing party only may petition for a second rehearing thereof. *Moore v. Harkins*, 179 N. C. 525, 103 S. E. 12.

A party whose application for a rehearing of the case has been denied may not successfully petition for a rehearing, though additional reasons are given in the denial of the former petition by the court in reaching the same conclusion. *Moore v. Harkins*, 179 N. C. 525, 103 S. E. 12.

Costs When New Trial Granted.—Where, upon a rehearing, the court grants a new trial, which was refused on the former hearing, all the costs of the appeal, including those of the rehearing, are properly taxed against the appellee. *Waldo v. Wilson*, 174 N. C. 767, 94 S. E. 715.

Reasons for Denying Petition Not Usually Set Out.—The reasons for denying a petition to rehear in the Supreme Court are not usually set out. *Crowell v. Crowell*, 181 N. C. 66, 106 S. E. 149.

Applied in Etheridge v. Vernoy, 71 N. C. 184; *Neal v. Cowles*, 71 N. C. 266; *Grant v. Edwards*, 88 N. C. 246; *Wilson v. Lineberger*, 90 N. C. 180; *McDonald v. Carson*, 95 N. C. 377; *Manufacturing Co. v. Gray*, 126 N. C. 108, 35 S. E. 236; *Hendon v. North Carolina R. Co.*, 127 N. C. 110, 37 S. E. 155; *Morganton Hdw. Co. v. Morganton Graded Schools*, 151 N. C. 507, 66 S. E. 583; *Forcast City Cotton Co. v. Mills*, 219 N. C. 279, 13 S. E. (2d) 557.

(5) **New Briefs to Be Filed.** There shall be no oral argument before the Justices or Justice thus designated, before it is acted on by them, and if they order the petition docketed, there shall be no oral argument thereon before the Court (unless the Court of its own motion shall direct an

oral argument, but it shall be submitted on the record at the former hearing, the printed petition to rehear, and a brief to be filed by the petitioner within ten days after the petition is ordered to be docketed, and a brief to be filed by the respondent within twenty days after such order to docket. Such briefs shall not be the briefs on the first hearing, but shall be new briefs, directed to the errors assigned in the petition, and shall be printed. If not printed and filed in the prescribed time by the petitioner, the petition will be dismissed, and for default in either particular by the respondent the cause will be disposed of without such brief.

(6) When Petition Docketed for Rehearing. The petition may be ordered docketed for a rehearing as to all points recited by the two certifying counsel (who cannot certify to errors not alleged in the petition), or it may be restricted to one or more of the points thus certified, as may be directed by the Justices who grant the application. When a petition to rehear is ordered to be docketed, notice shall at once be given by the clerk to counsel on both sides.

(7) Stay of Execution. When a petition to rehear is filed with the clerk of this Court, the Justice or Justices designated by the petitioner to pass upon it may, upon application and in his or their discretion, stay or restrain execution of the judgment or order until the certificate for a rehearing is either refused or, if allowed, until this Court has finally disposed of the case on the rehearing. Unless the party applying for the rehearing has already stayed execution in the court below, when the appeal was taken, by giving the required security, he shall, at the time of applying to the Justice or Justices for a stay, tender sufficient security for that purpose, which shall be approved by the Justice or Justices. Notice of the application for a stay must be given to the other party, if deemed proper by the Justice or Justices, for such time before the hearing of the application and in such manner as may be ordered. If a petition for a hearing is denied, or if granted, and the petition is afterwards dismissed, the stay shall no longer continue in force, and execution may issue at once, or the judgment or order be otherwise enforced, unless, in case the petition is dismissed, the Court shall otherwise direct. When a stay is granted, the order shall run in the name of this Court and be signed and issued by the clerk, under its seal, with proper recitals to show the authority under which it was issued.

45. Sittings of the Court

The Court will sit daily, during the terms, Sundays and Mondays excepted, from 10 a. m. to 2 p. m., for the hearing of causes, except when the docket of a district is exhausted before the close of the week allotted to it.

46. Citation of Reports

Inasmuch as all the volumes of Reports prior to the 63d have been reprinted by the State, with the number of the volume instead of the name of the reporter, counsel will cite the volumes prior to 63 N. C. as follows:

1 and 2 Martin, Taylor & Conf.	as	1 N. C.
1 Haywood	as	2 N. C.
2 Haywood	as	3 N. C.

1 and 2 Car. Law Repository & N. C. Term	as	4 N. C.
1 Murphey	as	5 N. C.
2 Murphey	as	6 N. C.
3 Murphey	as	7 N. C.
1 Hawks	as	8 N. C.
2 Hawks	as	9 N. C.
3 Hawks	as	10 N. C.
4 Hawks	as	11 N. C.
1 Devereux Law	as	12 N. C.
2 Devereux Law	as	13 N. C.
3 Devereux Law	as	14 N. C.
4 Devereux Law	as	15 N. C.
1 Devereux Eq.	as	16 N. C.
2 Devereux Eq.	as	17 N. C.
1 Dev. & Bat. Law	as	18 N. C.
2 Dev. & Bat. Law	as	19 N. C.
3 & 4 Dev. & Bat. Law	as	20 N. C.
1 Dev. & Bat. Eq.	as	21 N. C.
2 Dev. & Bat. Eq.	as	22 N. C.
1 Iredell Law	as	23 N. C.
2 Iredell Law	as	24 N. C.
3 Iredell Law	as	25 N. C.
4 Iredell Law	as	26 N. C.
5 Iredell Law	as	27 N. C.
6 Iredell Law	as	28 N. C.
7 Iredell Law	as	29 N. C.
8 Iredell Law	as	30 N. C.
9 Iredell Law	as	31 N. C.
10 Iredell Law	as	32 N. C.
11 Iredell Law	as	33 N. C.
12 Iredell Law	as	34 N. C.
13 Iredell Law	as	35 N. C.
1 Iredell Eq.	as	36 N. C.
2 Iredell Eq.	as	37 N. C.
3 Iredell Eq.	as	38 N. C.
4 Iredell Eq.	as	39 N. C.
5 Iredell Eq.	as	40 N. C.
6 Iredell Eq.	as	41 N. C.
7 Iredell Eq.	as	42 N. C.
8 Iredell Eq.	as	43 N. C.
Busbee Law	as	44 N. C.
Busbee Eq.	as	45 N. C.
1 Jones Law	as	46 N. C.
2 Jones Law	as	47 N. C.
3 Jones Law	as	48 N. C.
4 Jones Law	as	49 N. C.
5 Jones Law	as	50 N. C.
6 Jones Law	as	51 N. C.
7 Jones Law	as	52 N. C.
8 Jones Law	as	53 N. C.
1 Jones Eq.	as	54 N. C.
2 Jones Eq.	as	55 N. C.
3 Jones Eq.	as	56 N. C.
4 Jones Eq.	as	57 N. C.
5 Jones Eq.	as	58 N. C.
6 Jones Eq.	as	59 N. C.
1 and 2 Winston	as	60 N. C.
Phillips Law	as	61 N. C.
Phillips Eq.	as	62 N. C.

In quoting from the reprinted Reports counsel will cite always the marginal (i. e., the original) paging, except 20 N. C., which is repaged throughout, without marginal paging.

47. Court Reconvened

The Court may be reconvened at any time after final adjournment by order of the Chief Justice, or, in the event of his inability to act, by one of the Associate Justices in order of seniority.

(2) RULES OF PRACTICE IN THE SUPERIOR COURTS OF NORTH CAROLINA

(Rules revised and adopted by the Justices of the Supreme Court of North Carolina.)

RULES

1. Entries on Records

No entry shall be made on the records of the Superior Courts (the summons docket excepted) by any other person than the clerk, his regular deputy, or some person so directed by the presiding judge or the judge himself.

2. Surety on Prosecution Bond and Bail

No person who is bail in any action or proceeding, either civil or criminal, or who is surety for the prosecution of any suit, or upon appeal from a justice of the peace, or is surety in any undertaking to be affected by the result of the trial of the action, shall appear as counsel or attorney in the same cause. And it shall be the duty of the clerks of the several Superior Courts to state, on the docket for the court, the names of the bail, if any, and surety for the prosecution in each case, or upon appeal from a justice of the peace. All prosecution bonds for any suit must be justified before the clerk of the Superior Court in a sum double the amount of the bond, and the justification must show that the surety is a resident of North Carolina, and must also show the county wherein the surety resides.

3. Opening and Conclusion

In all cases, civil or criminal, when no evidence is introduced by the defendant, the right of reply and conclusion shall belong to his counsel.

4. Examination of Witnesses

When several are employed on the same side, the examination, or cross-examination, of each witness shall be conducted by one counsel, but the counsel may change with each successive witness, or, with leave of the court, in a prolonged examination of a single witness. When a witness is sworn and offered, or when testimony is proposed to be elicited, to which objection is made by counsel of the opposing party, the counsel so offering shall state for what purpose the witness, or the evidence to be elicited, is offered; whereupon the counsel objecting shall state his objection and be heard in support thereof, and the counsel so offering shall be heard in support of the competency of the witness and of the proposed evidence in conclusion, and the argument shall proceed no further, unless by special leave of the court.

5. Motion for Continuance

When a party in a civil suit moves for continuance on account of absent testimony, such party shall state, in a written affidavit, the nature of such testimony and what he expects to prove by it, and the motion shall be decided without debate, unless permitted by the court.

6. Decision of Right to Conclude Not Appealable

In any case where a question shall arise as to whether the counsel for the plaintiff or the counsel for the defendant shall have the reply and the conclusion of the argument the court shall decide who is so entitled, and, except in the cases mentioned in Rule 3, its decision shall be final and not reviewable.

7. Issues

Issues shall be made up as provided and directed in G. S. § 1-200.

8. Judgments

Judgments shall be docketed as provided and directed in G. S. §§ 1-233 and 1-234.

9. Transcript of Judgment

Clerks of the Superior Courts shall not make out transcripts of the original judgment docket to be docketed in another county, until after the expiration of the term of the court at which such judgments were rendered.

10. Docketing Magistrate's Judgments

Judgments rendered by a justice of the peace upon summons issued and returnable on the same day as the cases are successively reached and passed on, without continuance as to any, shall stand upon the same footing, and transcripts for docketing in the Superior Court shall be furnished to applicants at the same time after such rendition of judgment, and if delivered to the clerk of such court on the same day, shall create liens on real estate, and have no priority or precedence the one over the other, if all are, or shall be, entered within ten days after such delivery to said clerk.

11. Transcript to Supreme Court

In every case of appeal to the Supreme Court, or in which a case is taken to the Supreme Court by means of the writ of certiorari as a substitute for an appeal, it shall be the duty of the clerk of the Superior Court, in preparing the transcript of the record for the Supreme Court, to set forth the proceedings in the action in the order of time in which they occurred, and the several processes or orders, and they shall be arranged to follow each other in order as nearly as practicable.

The pages of the transcript shall be plainly numbered, and there shall be written on the margin of each a brief statement of the subject-matter, opposite to the same. On the first page of the transcript of the record there shall be an index in the following or some equivalent form:

	Page
Summons—date	1
Complaint—first cause of action	2
Complaint—second cause of action ..	3
Affidavit of attachment	4
and so on to the end.	

12. Transcript on Appeal—When Sent Up

Transcripts on appeal to the Supreme Court shall be forwarded to that Court in Twenty days

after the case agreed, or case settled by the judge, is filed in office of clerk of the Superior Court. G. S. § 1-284.

13. Reports of Clerks and Commissioners

Every clerk of the Superior Court, and every commissioner appointed by such court, who, by virtue or under color of any order, judgment, or decree of the court in any action or proceeding pending in it, has received or shall receive any money or security for money, to be kept or invested for the benefit of any party to such action, or of any other person, shall, at the term of such court held on or next after the first day of January in each year, report to the judge a statement of said fund, setting forth the title and number of the action, and the term of the court at which the order or orders under which the officer professes to act were made, the amount and character of the investment, and the security for the same, and his opinion as to the sufficiency of the security. In every report, after the first, he shall set forth any change made in the amount or character of the investment since the last report, and every payment made to any person entitled thereto.

The report required by the next preceding paragraph shall be made to the judge of the Superior Court holding the first term of the court in each and every year, who shall examine it, or cause it to be examined, and, if found correct, and so certified by him, it shall be entered by the clerk upon his book of accounts of guardians and other fiduciaries.

14. Recordari

The Superior Court shall grant the writ of recordari only upon the petition of the party applying for it, specifying particularly the grounds of the application for the same. The petition shall be verified and the writ may be granted with or without notice; if with notice, the petition shall be heard upon answer thereto duly verified, and upon the affidavits and other evidence offered by the parties, and the decision thereupon shall be final, subject to appeal as in other cases; if granted without notice, the petitioner shall first give the undertaking for costs, and for the writ of supersedeas, if prayed for as required by G. S. § 1-269. In such case the writ shall be made returnable to the term of the Superior Court of the county in which the judgment or proceeding complained of was granted or had, and ten days notice in writing of the filing of the petition shall be given to the adverse party before the term of the court to which the writ shall be made returnable. The defendant in the petition, at the term of the Superior Court to which the said writ is returnable, may move to dismiss, or answer the same, and the answer shall be verified. The court shall hear the application at the return term thereof (unless for good cause shown the hearing shall be continued) upon the petition, answer, affidavits, and such evidence as the court may deem pertinent, and dismiss the same, or order the case to be placed on the trial docket according to law.

In proper cases the court may grant the writ of certiorari in like manner, except that in case of the suggestion of a diminution of the record, if it

shall manifestly appear that the record is imperfect, the court may grant the writ upon motion in the cause.

15. Judgment—When to Require Bonds to Be Filed

In no case shall the court make or sign any order, decree, or judgment directing the payment of any money or securities for money belonging to any infant or to any person until it shall first appear that such person is entitled to receive the same and has given the bonds required by law in that respect, and such payments shall be directed only when such bonds as are required by law shall have been given and accepted by competent authority.

16. Next Friend—How Appointed

In all cases where it is proposed that infants shall sue by their next friend, the court shall appoint such next friend, upon the written application of a reputable, disinterested person closely connected with such infant; but if such person will not apply, then, upon the like application of some reputable citizen; and the court shall make such appointment only after due inquiry as to the fitness of the person to be appointed.

17. Guardians Ad Litem—How Appointed

All motions for a guardian ad litem shall be made in writing, and the court shall appoint such guardian only after due inquiry as to the fitness of the person to be appointed, and such guardian must file an answer in every case.

18. Cases Put at Foot of Docket

All civil actions that have been at issue for two years, and that may be continued by consent at any term, will be placed at the end of the docket for the next term in their relative order upon the docket. When a civil action shall be continued on motion of one of the parties, the court may, in its discretion, order that such action be placed at the end of the docket, as if continued by consent.

19. When Opinion Is Certified

When the opinion of the Supreme Court in any cause which has been appealed to that Court has been certified to the Superior Court, such cause shall stand on the docket in its regular order at the first term after receipt of the opinion for judgment or trial, as the case may be, except in criminal actions in which the judgment has been affirmed. G. S. § 15-186.

20. Calendar.

When a calendar of civil actions shall be made under the supervision of the court, or by a committee of attorneys under the order of the court or by consent of the court, unless cause be shown to the contrary, all actions continued by consent, and numbered on the docket between the first and last numbers placed upon the calendar, will be placed at the end of the docket for the next term, as if continued by consent, if such actions have been at issue for two years.

21. Cases Set for a Day Certain.

Neither civil nor criminal actions will be set for trial on a day certain, or not to be called for trial before a day certain, unless by order of the

court; and if the other business of the term shall have been disposed of before the day for which a civil action is set, the court will not be kept open for the trial of such action, except for some special reason apparent to the judge; but this rule will not apply when a calendar has been adopted by the court.

22. Calendar under Control of Court.

The court will reserve the right to determine whether it is necessary to make a calendar, and, also, for the dispatch of business, to make orders as to the disposition of causes placed upon the calendar and not reached on the day for which they may be set.

23. Nonjury Cases.

When a calendar shall be made, all actions that do not require the intervention of a jury, together with motions for interlocutory orders, will be placed on the motion docket, and the judge will exercise the right to call the motion docket at any time after the calendar shall be taken up.

24. Appeals from Justices of the Peace.

Appeals from justices of the peace in civil actions will not be called for trial unless the returns of such appeals have been docketed ten days previous to the term, but appeals docketed less than ten days before the term may be tried by consent of parties.

25. On Consent Continuance—Judgment for Costs.

When civil action shall be continued by consent of parties, the court will, upon suggestion that the charges of witnesses and fees of officers have not been paid, adjudge that the parties to the action pay respectively their own costs, subject to the right of the prevailing party to have such costs taxed in the final judgment.

26. Time to File Pleadings—How Computed.

When time to file pleadings is allowed, it shall be computed from the adjournment of the court.

27. Counsel Not Sent for.

Except for some unusual reason, connected with the business of the court, attorneys will not be sent for when their cases are called in their regular order.

28. Criminal Dockets.

Clerks of the courts will be required, upon the criminal dockets prepared for the court and solicitor, to state and number the criminal business of the court in the following order:

First. All criminal causes at issue.

Second. All warrants upon which parties have been held to answer at that term.

Third. All presentments made at preceding terms, undisposed of.

Fourth. All cases wherein judgments nisi have been entered at the preceding term against defendants and their sureties, and against defaulting jurors or witnesses in behalf of the State.

29. Civil and Criminal Dockets—What to Contain.

Clerks will be required, upon both civil and criminal dockets, to bring forward and enter in different columns of sufficient space, in each case:

First. The names of the parties.

Second. The nature of the action.

Third. A summary history of the case, including the date of issuance of process, pleadings filed, and a brief note of all proceedings and orders therein.

Fourth. A blank space for the entries of the term.

30. Books.

The clerks of the Superior Courts shall be chargeable with the care and preservation of the volumes of the Reports, and shall report at each term to the presiding judge whether any and what volumes have been lost or damaged since the last preceding term.

II. Removal of Causes

Removal from the State Courts to the District Courts of the United States

(U. S. Code, Title 28, §§ 71-83, as amended;
and Rule 81(c) of Federal Rules of
Civil Procedure.)

§ 71. (Judicial Code, section 28, amended.) Removal of suits from state courts.—Any suit of a civil nature, at law or in equity, arising under the constitution or laws of the United States, or treaties made, or which shall be made, under their authority, of which the district courts of the United States are given original jurisdiction by Part I of this title, in any state court, may be removed by the defendant or defendants therein to the district court of the United States for the proper district. Any other suit of a civil nature, at law or in equity, of which the district courts of the United States are given jurisdiction, by Part I of this title, in any state court, may be removed into the district court of the United States for the proper district by the defendant or defendants therein, being non-residents of that state. And when in any suit mentioned in this section there shall be a controversy which is wholly between citizens of different states, and which can be fully determined as between them, then either one or more of the defendants actually interested in such controversy may remove said suit into the district court of the United States for the proper district. And where a suit is brought in any state court, in which there is a controversy between a citizen of the state in which the suit is brought and a citizen of another state, any defendant, being such citizen of another state, may remove such suit into the district court of the United States for the proper district, at any time before the trial thereof, when it shall be made to appear to said district court that from prejudice or local influence he will not be able to obtain justice in such state court, or in any other state court to which the said defendant may, under the laws of the state, have the right, on account of such prejudice or local influence, to remove said cause: Provided, that if it further appear that said suit can be fully and justly determined as to the other defendants in the state court, without being affected by such prejudice or local influence, and that no party to the suit will be prejudiced by a separation of the parties, said district court may direct the suit to be remanded, so far as relates to such other defendants, to the state court, to be proceeded with therein.

At any time before the trial of any suit in any district court, which has been removed to said court from a state court on the affidavit of any party plaintiff [defendant] that he had reason to believe and did believe that, from prejudice or local influence, he was unable to obtain justice in said state court, the district court shall, on application of the other party, examine into the truth of said affidavit and the grounds thereof, and, unless it shall appear to the satisfaction of said court that said party will not be able to obtain justice in said state court, it shall cause the same to be remanded thereto.

Whenever any cause shall be removed from any state court into any district court of the United States, and the district court shall decide that the cause was improperly removed, and order the same to be remanded to the state court from whence it came, such remand shall be immediately carried into execution, and no appeal from the decision of the district court so remanding such cause shall be allowed: Provided, that no case arising under (an act entitled "An act relating to the liability of common carriers by railroad to their employees in certain cases," approved April twenty-second, nineteen hundred and eight, or any amendment thereto), and brought in any state court of competent jurisdiction shall be removed to any court of the United States; and provided further, that no suit brought in any state court of competent jurisdiction against a railroad company, or other corporation, or person, engaged in and carrying on the business of a common carrier, to recover damages for delay, loss of, or injury to property received for transportation by such common carrier under section twenty (of the act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, as amended June twenty-ninth, nineteen hundred and six, April thirteenth, nineteen hundred and eight, February twenty-fifth, nineteen hundred and nine, and June eighteenth nineteen hundred and ten), shall be removed to any court of the United States where the matter in controversy does not exceed, exclusive of interest and costs, the sum or value of \$3,000.

§ 72. (Judicial Code, section 29.) Same; procedure.—Whenever any party entitled to remove any suit mentioned in section 71 of this title, except suits removable on the ground of prejudice or local influence, may desire to remove such suit from a state court to the district court of the United States, he may make and file a petition, duly verified, in such suit in such state court at the time, or any time before the defendant is required by the laws of the state or the rule of the state court in which such suit is brought to answer or plead to the declaration or complaint of the plaintiff, for the removal of such suit into the district court to be held in the district where such suit is pending, and shall make and file therewith a bond, with good and sufficient surety, for his or their entering in such district court, within thirty days from the date of filing said petition, a certified copy of the record in such suit, and for paying all costs that may be awarded by the said district court if said district court shall hold that such suit was wrongfully or improperly removed thereto, and also for their appearing and entering special bail in such suit if special bail was originally requisite therein. It shall then be the duty of the state court to accept said petition and bond and proceed no further in such suit. Written notice of said petition and bond for removal shall be given the adverse party or parties prior to filing the same. The said copy being entered within said thirty days as aforesaid

in said district court of the United States, the parties so removing the said cause shall, within thirty days thereafter, plead, answer, or demur to the declaration or complaint in said cause, and the cause shall then proceed in the same manner as if it had been originally commenced in the said district court.

§ 73. (Judicial Code, section 30.) Same; suits under grants of land from different states.—If in any action commenced in a state court the title of land be concerned, and the parties are citizens of the same state and the matter in dispute exceeds the sum or value of three thousand dollars, exclusive of interest and costs, the sum or value being made to appear, one or more of the plaintiffs or defendants, before the trial, may state to the court, and make affidavit if the court require it, that he or they claim, and shall rely upon, a right or title to the land under a grant from a state, and produce the original grant, or an exemplification of it, except where the loss of public records shall put it out of his or their power, and shall move that any one or more of the adverse party inform the court whether he or they claim a right or title to the land under a grant from some other state, the party or parties so required shall give such information, or otherwise not be allowed to plead such grant or give it in evidence upon the trial. If he or they inform the court that he or they do claim under such grant, any one or more of the parties moving for such information may then, on petition and bond, as hereinbefore mentioned in this chapter, remove the cause for trial to the district court of the United States next to be holden in such district; and any one of either party removing the cause shall not be allowed to plead or give evidence of any other title than that by him or them stated as aforesaid as the ground of his or their claim.

§ 74. (Judicial Code, section 31.) Same; causes against persons denied civil rights.—When any civil suit or criminal prosecution is commenced in any state court, for any cause whatsoever, against any person who is denied or can not enforce in the judicial tribunals of the state, or in the part of the state where such suit or prosecution is pending, any right secured to him by any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction of the United States, or against any officer, civil or military, or other person, for any arrest or imprisonment or other trespasses or wrongs made or committed by virtue of or under color of authority derived from any law providing for equal rights as aforesaid, or for refusing to do any act on the ground that it would be inconsistent with such law, such suit or prosecution may, upon the petition of such defendant, filed in said state court at any time before the trial or final hearing of the cause, stating the facts and verified by oath, be removed for trial into the next district court to be held in the district where it is pending. Upon the filing of such petition all further proceedings in the state courts shall cease, and shall not be resumed except as hereinafter provided. But all bail and other security given in such suit or prosecution shall continue in like force and effect as if the same had proceeded to final judg-

ment and execution in the state court. It shall be the duty of the clerk of the state court to furnish such defendant, petitioning for a removal, copies of said process against him, and of all pleadings, depositions, testimony, and other proceedings in the case. If such copies are filed by said petitioner in the district court on the first day of its session, the cause shall proceed therein in the same manner as if it had been brought there by original process; and if the said clerk refuses or neglects to furnish such copies, the petitioner may thereupon docket the case in the district court, and the said court shall then have jurisdiction therein, and may, upon proof of such refusal or neglect of said clerk and upon reasonable notice to the plaintiff, require the plaintiff to file a declaration, petition, or complaint in the cause; and, in case of his default, may order a nonsuit, and dismiss the case at the costs of the plaintiff, and such dismissal shall be a bar to any further suit touching the matter in controversy. But if, without such refusal or neglect of said clerk to furnish such copies and proof thereof, the petitioner for removal fails to file copies in the district court, as herein provided, a certificate, under the seal of the district court, stating such failure, shall be given, and upon the production thereof in said state court the cause shall proceed therein as if no petition for removal had been filed.

§ 75. (Judicial Code, section 32.) Same; petitioner in actual custody of state court.—When all the acts necessary for the removal of any suit or prosecution, as provided in section 74 of this title, have been performed, and the defendant petitioning for such removal is in actual custody on process issued by said state court, it shall be the duty of the clerk of said district court to issue a writ of habeas corpus cum causa, and of the marshal, by virtue of said writ, to take the body of the defendant into his custody, to be dealt with in said district court according to law and the orders of said court, or, in vacation, of any judge thereof; and the marshal shall file with or deliver to the clerk of said state court a duplicate copy of said writ.

§ 76. (Judicial Code, section 33, amended.) Same; suits and prosecution against revenue officers.—When any civil suit or criminal prosecution is commenced in any court of a state against any officer appointed under or acting by authority of any revenue law of the United States, or against any person acting under or by authority of any such officer, on account of any act done under color of his office or of any such law, or on account of any right, title, or authority claimed by such officer or other person under any such law; or is commenced against any person holding property or estate by title derived from any such officer, and affects the validity of any such revenue law, or against any officer of the courts of the United States for or on account of any act done under color of his office or in the performance of his duties as such officer; or when any civil suit or criminal prosecution is commenced against any person for or on account of anything done by him while an officer of either house of congress in the discharge of his official duty, in executing any order of such house, the said suit or prosecution may, at any time before the trial or final hearing

thereof, be removed for trial into the district court next to be holden in the district where the same is pending, upon the petition of such defendant to said district court, and in the following manner: Said petition shall set forth the nature of the suit or prosecution and be verified by affidavit, and, together with a certificate signed by an attorney or counselor at law of some court of record of the state where such suit or prosecution is commenced, or of the United States, stating that, as counsel for the petitioner, he has examined the proceedings against him and carefully inquired into all the matters set forth in the petition, and that he believes them to be true, shall be presented to the said district court, if in session, or if it be not, to the clerk thereof at his office, and shall be filed in said office. The cause shall thereupon be entered on the docket of the district court, and shall proceed as a cause originally commenced in that court; but all bail and other security given upon such suit or prosecution shall continue in like force and effect as if the same had proceeded to final judgment and execution in the state court. When the suit is commenced in the state court by summons, subpoena, petition, or any other process except *capias*, the clerk of the district court shall issue a writ of *certiorari* to the state court, requiring it to send to the district court the record and the proceedings in the cause. When it is commenced by *capias* or by any other similar form of proceeding by which a personal arrest is ordered, he shall issue a writ of *habeas corpus cum causa*, a duplicate of which shall be delivered to the clerk of the state court, or left at his office, by the marshal of the district or his deputy, or by some other person duly authorized thereto; and thereupon it shall be the duty of the state court to stay all further proceedings in the cause, and the suit or prosecution, upon delivery of such process, or leaving the same as aforesaid, shall be held to be removed to the district court, and any further proceedings, trial, or judgment therein in the state court shall be void. If the defendant in the suit or prosecution be in actual custody on *mesne* process therein, it shall be the duty of the marshal, by virtue of the writ of *habeas corpus cum causa*, to take the body of the defendant into his custody, to be dealt with in the cause according to law and the order of the district court, or in vacation, of any judge thereof; and if, upon the removal of such suit or prosecution, it is made to appear to the district court that no copy of the record and proceedings therein in the state court can be obtained, the district court may allow and require the plaintiff to proceed *de novo* and to file a declaration of his cause of action, and the parties may thereupon proceed as in actions originally brought in said district court. On failure of the plaintiff so to proceed, judgment of non *prosequitur* may be rendered against him, with costs for the defendant.

§ 77. (Judicial Code, section 34.) Same; suits by aliens.—Whenever a personal action has been or shall be brought in any state court by an alien against any citizen of a state who is, or at the time the alleged action accrued was, a civil officer of the United States, being a non-resident of that state wherein jurisdiction is obtained by the

state court, by personal service or process, such action may be removed into the district court of the United States in and for the district in which the defendant shall have been served with the process, in the same manner as now provided for the removal of an action brought in a state court by the provisions of the preceding section.

§ 78. (Judicial Code, section 35.) Same; copies of records refused by clerk of state court.—In any case where a party is entitled to copies of the records and proceedings in any suit or prosecution in a state court, to be used in any court of the United States, if the clerk of said state court, upon demand, and the payment or tender of the legal fees, refuses or neglects to deliver to him certified copies of such records and proceedings, the court of the United States in which such records and proceedings are needed may, on proof by affidavit that the clerk of said state court has refused or neglected to deliver copies thereof, on demand as aforesaid, direct such record to be supplied by affidavit or otherwise, as the circumstances of the case may require and allow; and thereupon such proceeding, trial, and judgment may be had in the said court of the United States, and all such processes awarded, as if certified copies of such records and proceedings had been regularly before the said court.

§ 79. (Judicial Code, section 36.) Same previous attachment bonds or orders.—When any suit shall be removed from a state court to a district court of the United States, any attachment or sequestration of the goods or estate of the defendant had in such suit in the state court shall hold the goods or estate so attached or sequestered to answer the final judgment or decree in the same manner as by law they would have been held to answer final judgment or decree had it been rendered by the court in which said suit was commenced. All bonds, undertakings, or security given by either party in such suit prior to its removal shall remain valid and effectual notwithstanding said removal; and all injunctions, orders, and other proceedings had in such suit prior to its removal shall remain in full force and effect until dissolved or modified by the court to which such suit shall be removed.

§ 80. (Judicial Code, section 37.) Same; dismissal or remand.—If in any suit commenced in a district court, or removed from a state court to a district court of the United States, it shall appear to the satisfaction of the said district court, at any time after such suit has been brought or removed thereto, that such suit does not really and substantially involve a dispute or controversy properly within the jurisdiction of said district court, or that the parties to said suit have been improperly or collusively made or joined, either as plaintiffs or defendants, for the purpose of creating a case cognizable or removable under this chapter, the said district court shall proceed no further therein, but shall dismiss the suit or remand it to the court from which it was removed, as justice may require, and shall make such order as to costs as shall be just.

§ 81. (Judicial Code, section 38.) Same; proceedings in suit removed.—The district court of

the United States shall, in all suits removed under the provisions of this chapter, proceed therein as if the suit had been originally commenced in said district court, and the same proceedings had been taken in such suit in said district court as shall have been had therein in said state court prior to its removal.

§ 82. (Judicial Code, section 39.) Same; record; filing and return.—In all causes removable under this chapter, if the clerk of the state court in which any such cause shall be pending shall refuse to any one or more of the parties or persons applying to remove the same, a copy of the record therein, after tender of legal fees for such copy, said clerk so offending shall, on conviction thereof in the district court of the United States to which said action or proceeding was removed, be fined not more than one thousand dollars, or imprisoned not more than one year, or both. The district court to which any cause shall be removable under this chapter shall have power to issue a writ of certiorari to said state court commanding said State Court to make return of the record in any such cause removed as aforesaid, or in which any one or more of the plaintiffs or defendants have complied with the provisions of this chapter for the removal of the same, and enforce said writ according to law. If it shall be impossible for the parties or persons removing any cause under this chapter, or complying with the provisions for the removal thereof, to obtain such copy, for the reason that the clerk of said state court refuses to furnish a copy, on payment of legal fees, or for any other reason, the district court shall make an order requiring the prosecutor in any such action or proceeding to enforce forfeiture or recover penalty, as aforesaid, to file a copy of the paper or proceeding by which the same was commenced, within such time as the court may determine; and in default thereof the court shall dismiss the said action or proceeding; but if said order shall be complied with, then said district court shall require the other party to plead, and said action or proceeding shall proceed to final judgment. The said district court may make an order requiring the parties thereto to plead de novo; and the bond given, conditioned as aforesaid, shall be discharged so far as it

requires copy of the record to be filed as aforesaid.

§ 83. Service of process after removal.—In all cases removed from any state court to any United States court for trial in which any one or more of the defendants has not been served with process or in which the same has not been perfected prior to such removal, or in which the process served upon the defendant or defendants, or any of them, proves to be defective, such process may be completed by the United States court through its officers, or new process as to defendants upon whom process has not been completed may be issued out of the United States court, or service may be perfected in such court in the same manner as in cases which are originally filed in such United States court. Nothing in this section shall be construed to deprive any defendant upon whom process is so served after removal, of his right to move to remand the cause to the state court, the same as if process had been served upon him prior to such removal.

Federal Rules of Civil Procedure

Rule 81. Applicability in general.

(c) Removed Actions.—These rules apply to civil actions removed to the district courts of the United States from the state courts and govern all procedure after removal. Repleading is not necessary unless the court so orders. In a removed action in which the defendant has not answered, he shall answer or present the other defenses or objections available to him under these rules within the time allowed for answer by the law of the state or within 5 days after the filing of the transcript of the record in the district court of the United States, whichever period is longer. If at the time of removal all necessary pleadings have been filed, a party entitled to trial by jury under Rule 38 and who has not already waived his right to such trial shall be accorded it, if his demand therefor is served within 10 days after the record of the action is filed in the district court of the United States.

Editor's Note.—According to the notes of the Advisory Committee on Rules, the statutes set out above are substantially continued and made subject to the Federal Rules of Civil Procedure, however, Section 72 is modified by shortening the time for pleading in removed actions.

III. Authentication of Records

(U. S. Code, Title 28, §§ 687-689, as amended; and Rule 44 of Federal Rules of Civil Procedure.)

§ 687. Authentication of legislative acts; proof of judicial proceedings of State.—The acts of the legislature of any state or territory, or of any country subject to the jurisdiction of the United States, shall be authenticated by having the seals of such state, territory, or country affixed thereto. The records and judicial proceedings of the courts of any state or territory, or of any such country, shall be proved or admitted in any other court within the United States, by the attestation of the clerk, and the seal of the court annexed, if there be a seal, together with a certificate of the judge, chief justice, or presiding magistrate, that the said attestation is in due form. And the said records and judicial proceedings, so authenticated, shall have such faith and credit given to them in every court within the United States as they have by law or usage in the courts of the state from which they are taken.

§ 688. Proof of records in offices not pertaining to courts.—All records and exemplifications of books, which may be kept in any public office of any state or territory, or of any country subject to the jurisdiction of the United States, not appertaining to a court, shall be proved or admitted in any court or office in any other state or territory, or in any such country, by the attestation of the keeper of the said records or books, and the seal of his office annexed, if there be a seal, together with a certificate of the presiding justice of the court of the county, parish, or district in which such office may be kept, or of the governor, or secretary of state, the chancellor or keeper of the great seal, of the state, or territory, or country, that the said attestation is in due form, and by the proper officers. If the said certificate is given by the presiding justice of a court, it shall be further authenticated by the clerk or prothonotary of the said court, who shall certify, under his hand and the seal of his office, that the said presiding justice is duly commissioned and qualified; or, if given by such governor, secretary, chancellor, or keeper of the great seal, it shall be under the great seal of the state, territory, or country aforesaid, in which it is made. And the said records and exemplifications, so authenticated, shall have such faith and credit given to them in every court and office within the United States as they have by law or usage in the courts or offices of the state, territory, or country, as aforesaid, from which they are taken.

§ 689. Copies of foreign records relating to land titles.—It shall be lawful for any keeper or person having the custody of laws, judgments, orders, decrees, journals, correspondence, or other public documents of any foreign government or its agents, relating to title to lands claimed by or un-

der the United States, on the application of the head of one of the departments, the general counsel for the department of the treasury, or the commissioner of the general land office, to authenticate copies thereof under his hand and seal, and to certify them to be correct and true copies of such laws, judgments, orders, decrees, journals, correspondence, or other public documents, respectively; and when such copies are certified by an American minister or consul, under his hand and seal of office, to be true copies of the originals, they shall be sealed up by him and returned to the general counsel for the department of the treasury, who shall file them in his office, and cause them to be recorded in a book to be kept for that purpose. A copy of any such law, judgment, order, decree, journal, correspondence, or other public document, so filed, or of the same so recorded in said book, may be read in evidence in any court, where the title to land claimed by or under the United States may come into question, equally with the originals.

Rule 44. Proof of official record.—(a) Authentication of Copy.—An official record or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied with a certificate that such officer has the custody. If the office in which the record is kept is within the United States or within a territory or insular possession subject to the dominion of the United States, the certificate may be made by a judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public officer having a seal of office and having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of his office. If the office in which the record is kept is in a foreign state or country, the certificate may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the United States stationed in the foreign state or country in which the record is kept, and authenticated by the seal of his office.

(b) Proof of Lack of Record.—A written statement signed by an officer having the custody of an official record or by his deputy that after diligent search no record or entry of a specified tenor is found to exist in the records of his office, accompanied by a certificate as above provided, is admissible as evidence that the records of his office contain no such record or entry.

(c) Other Proof.—This rule does not prevent the proof of official records or of entry or lack of entry therein by any method authorized by any applicable statute or by the rules of evidence at common law.

IV. Extradition

(These rules of practice of the Executive Department of North Carolina in making requisitions were adopted upon the recommendation of the Interstate Extradition Conference.)

As to the Uniform Criminal Extradition Act, see §§ 15-55 to 15-84.

The application for the requisition must be made by the district or prosecuting attorney for the county or district in which the offense was committed, and must be in duplicate original papers or certified copies thereof.

The following must appear by the certificate of the district or prosecuting attorney:

(a) The full name of the person for whom extradition is asked, together with the name of the agent proposed, to be properly spelled, in Roman capital letters, for example: JOHN DOE.

(b) That in his opinion the ends of public justice require that the alleged criminal be brought to this state for trial at the public expense.

(c) That he believes he has sufficient evidence to secure the conviction of the fugitive.

(d) That the person named as agent is a proper person, and that has no private interest in the arrest of the fugitive.

(e) If there has been any former application for a requisition for the same person growing out of the same transaction, it must be so stated, with an explanation of the reasons for a second request, together with the date of such application, as near as may be.

(f) If the fugitive is known to be under either civil or criminal arrest in the state or territory to which he is alleged to have fled, the fact of such arrest and the nature of the proceedings on which it is based must be stated.

(g) That the application is not made for the purpose of enforcing the collection of a debt, or for any private purpose whatever, and that if the requisition applied for be granted, the criminal proceeding shall not be used for any of said objects.

(h) The nature of the crime charged, with a reference, when practicable, to the particular statute defining and punishing the same.

(i) If the offence charged is not of recent occurrence, a satisfactory reason must be given for the delay in making the application.

1. In all cases of fraud, false pretense, embezzlement, or forgery, when made a crime by the common law, or any penal code or statute, the affidavit of the principal complaining witness or informant that the application is made in good faith, for the sole purpose of punishing the accused, and that he does not desire or expect to use the prosecution for the purpose of collecting a debt, or for any private purposes, and will not directly nor indirectly use the same for any of said purposes, shall be required or a sufficient reason be given for the absence of such affidavit.

2. Proof or affidavit of facts and circumstances satisfying the executive that the alleged criminal has fled from the justice of the state, and is in the state on whose executive the demand is requested

to be made, must be given. The fact that the alleged criminal was in the state where the alleged crime was committed at the time of the commission thereof, and is found in the same state upon which the requisition was made, shall be sufficient evidence, in the absence of other proof, that he is a fugitive from justice.

3. If an indictment has been found, certified copies, in duplicate, must accompany the application.

4. If an indictment has not been found by a grand jury, the facts and circumstances showing the commission of the crime charged, and that the accused perpetrated the same, must be shown by affidavits taken before a magistrate (a notary public is not a magistrate within the meaning of the statutes), and that a warrant has been issued and duplicate certified copies of the same, together with the returns thereto, if any, must be furnished upon application.

5. The official character of the officer taking the affidavits or depositions and of the officer who issued the warrant must be duly certified.

6. Upon the renewal of an application, for example, on the ground that the fugitive has fled to another state, not having been found in the state on which the first was granted, new or certified copies of papers in conformity with the above rules must be furnished.

7. In the case of any person who has been convicted of any crime and escapes after conviction, or while serving his sentence, the application may be made by the jailer, sheriff, or other officer having him in custody, and shall be accompanied by certified copies of the indictment or information, record of conviction and sentence, upon which the person is held, with the affidavit of such person having him in custody, showing such escape, with the circumstances attending the same.

8. No requisition will be made for the extradition of any fugitive except in compliance with these rules.

FORM OF REQUISITION

To His Excellency, the Governor of

The Annexed Papers, Duly authenticated in accordance with the law show that by in the county of State of North Carolina, stands charged with which is a crime against the laws of this State; and it appearing that the said has fled from justice and has taken refuge in the State of

Therefore, In pursuance of justice, and by authority of the Constitution and Laws of the United States I Governor of the State of North Carolina hereby require that the said be apprehended and delivered to who is hereby authorized and commissioned as the agent of this State to receive said fugitive and convey him to the county of, in the State of North Carolina, to be dealt with according to law.

In Witness Whereof, I have hereunto set my

hand and caused to be fixed the Great Seal of the State.

Done at our City of Raleigh, this day of in the year of our Lord one thousand nine hundred and, and in the one hundred and forty-..... year of our American Independence

[L. S.]

By the Governor:

FORM OF WARRANT

The Governor of North Carolina

To the Sheriff or other Officer of the State of North Carolina to whom these Presents shall come—Greeting:

Whereas, it has been represented to me by the Governor of that stand charged with the crime of which he certifies to be a crime under the laws of said State, committed in the county of in the said State, and has taken refuge in the State of North Carolina, and the said Governor of having, in pursuance of the Constitution and Laws of the United States, demanded of me that I shall cause the said to be arrested and delivered to who is duly authorized to receive into his custody and convey back to the said state of

And, Whereas, That said representation and demand is accompanied by whereby the said shown to have been duly charged with the said crime, and with having fled from the said State of, and taken refuge in the State of North Carolina, which duly certified by the said Governor of to be authentic and duly authenticated;

Therefore, You are hereby required to arrest and secure the said wherever may be found within the State of North Carolina, and afford such opportunity to sue out a writ of Habeas Corpus as is prescribed by the laws of this State, and to thereafter deliver

..... into the custody of the said to be taken back to the said State, from which fled, pursuant to the said requisition; and also to return this warrant and make return to the Governor of North Carolina, within thirty days from the date hereof, of all your proceedings had thereunder, and of all the facts and circumstances relating thereto.

In witness whereof, I have hereunto set my hand and caused to be affixed the Great Seal of the State.

Done at our City of Raleigh, this day of, in the year of our Lord one thousand nine hundred and, and in the one hundred and year of our American Independence.

[L. S.]

By the Governor:

AGENT'S AUTHORITY

To All Men to whom these Presents May Come —Greeting:

Know All Men, That I, Governor of the State of North Carolina, by virtue of authority in me vested by the Constitution and Laws of the United States, and the Constitution and Laws of North Carolina passed in pursuance thereof, do hereby authorize, commission and appoint Agent of the State of North Carolina to convey fugitive from justice from the said State of North Carolina, to the county of therein, to be dealt with according to law.

In witness whereof, I have hereunto set my hand and caused the Great seal of the State to be affixed.

Done at our City of Raleigh, this day of in the year of our Lord one thousand nine hundred and, and in the one hundred and forty year of our American Independence.

[L. S.]

By the Governor:

V. Naturalization

(The naturalization laws hereafter set out constitute Chapter 11, Subchapters 3 and 6, of Title 8, "Aliens and Nationality," of the United States Code Annotated, and they are published herein with permission of the copyright owners, the West Publishing Company and the Edward Thompson Company.)

CHAPTER 11. NATIONALITY CODE.

Subchapter III. Nationality through Naturalization.

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§ 701. Jurisdiction to naturalize.—(a) Exclusive jurisdiction to naturalize persons as citizens of the United States is hereby conferred upon the following specified courts: District Courts of the United States now existing, or which may hereafter be established by Congress in any State, District Courts of the United States for the Territories of Hawaii and Alaska, and for the District

of Columbia and for Puerto Rico, and the District Court of the Virgin Islands of the United States; also all courts of record in any State or Territory now existing, or which may hereafter be created, having a seal, a clerk, and jurisdiction in actions at law or equity, or law and equity, in which the amount in controversy is unlimited. The jurisdiction of all the courts herein specified

to naturalized persons shall extend only to such persons resident within the respective jurisdictions of such courts, except as otherwise specifically provided in this chapter.

(b) A person who petitions for naturalization in any State court having naturalization jurisdiction, may petition within the State judicial district or State judicial circuit in which he resides, whether or not he resides within the county in which the petition for naturalization is filed.

(c) The courts herein specified, upon request of the clerks of such courts, shall be furnished from time to time by the Commissioner or a Deputy Commissioner with such blank forms as may be required in naturalization proceedings.

(d) A person may be naturalized as a citizen of the United States in the manner and under the conditions prescribed in this chapter, and not otherwise. Oct. 14, 1940, c. 876, Title I, §301, 54 Stat. 1140.

§ 702. Eligibility for naturalization; sex or marriage.—The right of a person to become a naturalized citizen of the United States shall not be denied or abridged because of sex or because such person is married. Oct. 14, 1940, c. 876, Title I, §302, 54 Stat. 1140.

§ 703. Same; race.—The right to become a naturalized citizen under the provisions of this chapter shall extend only to white persons, persons of African nativity or descent, and descendants of races indigenous to the Western Hemisphere: Provided, That nothing in this section shall prevent the naturalization of native-born Filipinos having the honorable service in the United States Army, Navy, Marine Corps, or Coast Guard as specified in section 724, nor of former citizens of the United States who are otherwise eligible to naturalization under the provisions of section 717. Oct. 14, 1940, c. 876, Title I, §303, 54 Stat. 1140.

§ 704. Same; language.—No person except as otherwise provided in this chapter shall hereafter be naturalized as a citizen of the United States upon his own petition who cannot speak the English language. This requirement shall not apply to any person physically unable to comply therewith, if otherwise qualified to be naturalized. Oct. 14, 1940, c. 876, Title I, §304, 54 Stat. 1140.

§ 705. Same; belief in government and property rights.—No person shall hereafter be naturalized as a citizen of the United States—

(a) Who advises, advocates, or teaches, or who is a member of or affiliated with any organization, association, society, or group that advises, advocates, or teaches opposition to all organized government; or

(b) Who believes in, advises, advocates, or teaches, or who is a member of or affiliated with any organization, association, society, or group that believes in, advises, advocates, or teaches—

(1) the overthrow by force or violence of the Government of the United States or of all forms of law; or

(2) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or any other organized government, because of his or their official character; or

(3) the unlawful damage, injury, or destruction of property; or

(4) sabotage.

(c) Who writes, publishes, or causes to be written or published, or who knowingly circulates, distributes, prints, or displays, or knowingly causes to be circulated, distributed, printed, published, or displayed, or who knowingly has in his possession for the purpose of circulation, distribution, publication, or display any written or printed matter advising, advocating, or teaching opposition to all organized government, or advising, advocating, or teaching—

(1) the overthrow by force or violence of the Government of the United States or of all forms of law; or

(2) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government; or

(3) the unlawful damage, injury, or destruction of property; or

(4) sabotage.

(d) Who is a member of or affiliated with any organization, association, society, or group that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in subdivision (c).

For the purpose of this section—

(1) the giving, loaning, or promising of money or anything of value to be used for the advising, advocacy, or teaching of any doctrine above enumerated shall constitute the advising, advocacy, or teaching of such doctrine; and

(2) the giving, loaning, or promising of money or anything of value to any organization, association, society, or group of the character above described shall constitute affiliation therewith; but nothing in this paragraph shall be taken as an exclusive definition of advising, advocacy, teaching or affiliation.

The provisions of this section shall be applicable to any applicant for naturalization who at any time within a period of ten years immediately preceding the filing of the petition for naturalization is, or has been, found to be within any of the clauses enumerated in this section, notwithstanding that at the time petition is filed he may not be included in such classes. Oct. 14, 1940, c. 876, Title I, §305, 54 Stat. 1141.

§ 706. Same; desertion from armed forces or evasion of draft during war.—A person who, at any time during which the United States has been or shall be at war, deserted or shall desert the military or naval forces of the United States, or who, having duly enrolled, departed, or shall depart from the jurisdiction of the district in which enrolled, or went or shall go beyond the limits of the United States, with intent to avoid any draft into the military or naval service, lawfully ordered, shall, upon conviction thereof by a court martial, be ineligible to become a citizen of the United States; and such deserters shall be forever incapable of holding any office of trust or of profit under the United States, or of exercising any rights of citizens thereof. Oct. 14, 1940, c. 876, Title I, § 306, 54 Stat. 1141.

§ 707. Same; residence.—(a) No person, except as hereinafter provided in this chapter, shall be naturalized unless such petitioner, (1) immediately preceding the date of filing petition for naturalization has resided continuously within the United States for at least five years and within the State in which the petitioner resided at the time of filing the petition for at least six months, (2) has resided continuously within the United States from the date of the petition up to the time of admission to citizenship, and (3) during all the periods referred to in this subsection has been and still is a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States.

(b) Absence from the United States for a continuous period of more than six months but less than one year during the period for which continuous residence is required for admission to citizenship, immediately preceding the date of filing the petition for naturalization, or during the period between the date of filing the petition and the date of final hearing, shall be presumed to break the continuity of such residence, but such presumption may be overcome by the presentation of evidence satisfactory to the naturalization court that such individual had a reasonable cause for not sooner returning to the United States. Absence from the United States for a continuous period of one year or more during the period for which continuous residence is required for admission to citizenship, immediately preceding the date of filing the petition for naturalization or during the period between the date of filing the petition and the date of final hearing, shall break the continuity of such residence, except that in the case of an alien who has resided in the United States for at least one year, during which period he has made a declaration of intention to become a citizen of the United States, and who thereafter is employed by or under contract with the Government of the United States or an American institution of research recognized as such by the Attorney General, or is employed by an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States or a subsidiary thereof, no period of absence from the United States shall break the continuity of residence if—

(1) Prior to the beginning of such period (whether such period begins before or after his departure from the United States) the alien has established to the satisfaction of the Attorney General that his absence from the United States for such period is to be on behalf of such Government, or for the purpose of carrying on scientific research on behalf of such institution, or to be engaged in the development of such foreign trade and commerce or whose residence abroad is necessary to the protection of the property rights in such countries of such firm or corporation, and

(2) Such alien proves to the satisfaction of the court that his absence from the United States for such period has been for such purpose.

(c) No period of absence from the United States during the five years immediately preceding June 25, 1936, shall be held to have broken the continuity of residence required by the naturalization laws if the alien proves to the satisfaction of the Attorney General and the court that during all

such period of absence he has been under employment by, or contract with, the United States, or such American institution of research, or American firm or corporation, described in subsection (b) of this section, and has been carrying on the activities described in that subsection in its behalf.

(d) The following shall be regarded as residence within the United States within the meaning of this subchapter [§§ 701 to 747]:

(1) Honorable service on vessels owned directly by the Government of the United States, whether or not rendered at any time prior to the applicant's lawful entry into the United States: Provided, That this subdivision shall not apply to service on vessels operating in and about the Canal Zone in connection with the maintenance, operation, protection, and civil government of the Panama Canal and Canal Zone.

(2) Continuous service by a seaman on a vessel or vessels whose home port is in the United States and which are of American registry or American owned, if rendered subsequent to the applicant's lawful entry into the United States for permanent residence and immediately preceding the date of naturalization. Oct. 14, 1940, c. 876, Title I, § 307, 54 Stat. 1142.

§ 708. Same; residence of clergymen, etc., temporarily absent in professional capacity.—Any alien who has been lawfully admitted into the United States for permanent residence and who has heretofore been or may hereafter be absent temporarily from the United States solely in his or her capacity as a regularly ordained clergyman or nun, shall be considered as residing in the United States for the purpose of naturalization, notwithstanding any such absence from the United States, but he or she shall in all other respects comply with the requirements of the naturalization laws. Such alien shall prove to the satisfaction of the Attorney General and the naturalization court that his or her absence from the United States has been solely in the capacity hereinbefore described. Oct. 14, 1940, c. 876, Title I, § 308, 54 Stat. 1143.

§ 709. Requirements as to proof.—(a) As to each period and place of residence in the State in which the petitioner resides at the time of filing the petition, during the entire period of at least six months immediately preceding the date of filing the petition, there shall be included in the petition the affidavits of at least two credible witnesses, citizens of the United States, stating that each has personally known the petitioner to have been a resident at such place for such period, and that the petitioner is and during all such period has been a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States.

(b) At the hearing on the petition, residence in the State in which the petitioner resides at the time of filing the petition, for at least six months immediately preceding the date of filing the petition, and the other qualifications required by subsection (a) of section 707 during such residence shall be proved by the oral testimony of at least two credible witnesses, citizens of the United States, in addition to the affidavits required by subsection (a) of this section to be included in the petition. At the hearing, residence within the United States during the five-year period, but out-

side the State, or within the State but prior to the six months immediately preceding the date of filing the petition, and the other qualifications required by subsection (a) of section 707 during such period at such places, shall be proved either by depositions taken in accordance with subsection (e) of section 727 or oral testimony, of at least two such witnesses for each place of residence.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section the requirements of subsection (a) of section 707 as to the petitioner's residence, moral character, attachment to the principles of the Constitution of the United States, and disposition toward the good order and happiness of the United States may be established by any evidence satisfactory to the naturalization court in those cases under subsection (b) of section 707 in which the alien declarant has been absent from the United States because of his employment by or contract with the Government of the United States or an American institution of research, recognized as such by the Attorney General, or employment by an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States or a subsidiary thereof.

(d) The clerk of court shall, if the petitioner requests it at the time of filing the petition for naturalization, issue a subpoena for the witnesses named by such petitioner to appear upon the day set for the final hearing, but in case such witnesses cannot be produced upon the final hearing other witnesses may be summoned upon notice to the Commissioner, in such manner and at such time as the Commissioner, with the approval of the Attorney General, may by regulation prescribe. If it should appear after the petition has been filed that any of the verifying witnesses thereto are not competent, and it further appears that the petitioner has acted in good faith in producing such witnesses found to be incompetent, other witnesses may be substituted in accordance with such regulations. Oct. 14, 1940, c. 876, Title I, §309, 54 Stat. 1143.

§ 710. Married persons excepted from certain requirements; validation of certain naturalizations.

—(a) Any alien who, after September 21, 1922, and prior to May 24, 1934, has married a citizen of the United States, or any alien who married prior to May 24, 1934, a spouse who was naturalized during such period and during the existence of the marital relation may, if eligible to naturalization, be naturalized upon full and complete compliance with all requirements of the naturalization laws, with the following exceptions:

(1) No declaration of intention shall be required;

(2) In lieu of the five-year period of residence within the United States, and the six months' period of residence in the State where the petitioner resided at the time of filing the petition, the petitioner shall have resided continuously in the United States for at least one year immediately preceding the filing of the petition.

(b) Any alien who, on or after May 24, 1934, has married or shall hereafter marry a citizen of the United States, or any alien whose husband or wife was naturalized on or after May 24, 1934, and during the existence of the marital relation or shall hereafter be so naturalized may, if eligible for

naturalization, be naturalized upon full and complete compliance with all requirements of the naturalization laws, with the following exceptions:

(1) No declaration of intention shall be required;

(2) In lieu of the five-year period of residence within the United States, and the six months' period of residence in the State where the petitioner resided at the time of filing the petition, the petitioner shall have resided continuously in the United States for at least three years immediately preceding the filing of the petition.

(c) The naturalization of any woman on or after May 24, 1934, by any naturalization court of competent jurisdiction, upon proof of marriage to a citizen or the naturalization of her husband and proof of but one year's residence in the United States is hereby validated only so far as relates to the period of residence required to be proved by such person under the naturalization laws.

(d) The naturalization of any male person on or after May 24, 1934, by any naturalization court of competent jurisdiction, upon proof of marriage to a citizen of the United States after September 21, 1922, and prior to May 24, 1934, or of the naturalization during such period of his wife, and upon proof of three years' residence in the United States, is hereby validated only so far as relates to the period of residence required to be proved by such person under the naturalization laws and the omission by such person to make a declaration of intention. Oct. 14, 1940, c. 876, Title I, §310, 54 Stat. 1144.

§ 711. Same; Spouse of United States citizen residing in United States in marital union prior to petition.—A person who upon the effective date of this section is married to or thereafter marries a citizen of the United States, or whose spouse is naturalized after the effective date of this section, if such person shall have resided in the United States in marital union with the United States citizen spouse for at least one year immediately preceding the filing of the petition for naturalization, may be naturalized after the effective date of this section upon compliance with all requirements of the naturalization laws with the following exceptions:

(a) No declaration of intention shall be required.

(b) The petitioner shall have resided continuously in the United States for at least two years immediately preceding the filing of the petition in lieu of the five-year period of residence within the United States and the six months' period of residence within the State where the naturalization court is held. Title I, §311, 54 Stat. 1145.

§ 712. Same; alien whose spouse is United States citizen regularly stationed abroad by United States employer.—An alien, whose spouse is (1) a citizen of the United States, (2) in the employment of the Government of the United States, or of an American institution of research recognized as such by the Attorney General, or an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States, or a subsidiary thereof, and (3) regularly stationed abroad in such employment, and who is (1) in the United States at the time of naturalization, and (2) declares before the naturalization court in good faith an intention to take up residence within the United States im-

mediately upon the termination of such employment abroad of the citizen spouse, may be naturalized upon compliance with all requirements of the naturalization laws, with the following exceptions:

(a) No declaration of intention shall be required; and

(b) No prior residence within the United States or within the jurisdiction of the naturalization court or proof thereof shall be required. Oct. 14, 1940, c. 876, Title I, §312, 54 Stat. 1145.

§ 713. Children born outside United States; one parent a continuous United States citizen and other an alien subsequently naturalized.—A child born outside of the United States, one of whose parents at the time of the child's birth was an alien and the other of whose parents then was and never thereafter ceased to be a citizen of the United States, shall, if such alien parent is naturalized, be deemed a citizen of the United States, when—

(a) Such naturalization takes place while such child is under the age of eighteen years; and

(b) Such child is residing in the United States at the time of naturalization or thereafter and begins to reside permanently in the United States while under the age of eighteen years. Oct. 14, 1940, c. 876, Title I, §313, 54 Stat. 1145.

§ 714. Same; both parents aliens, or one an alien and other a citizen subsequently losing citizenship.—A child born outside of the United States of alien parents, or of an alien parent and a citizen parent who has subsequently lost citizenship of the United States, becomes a citizen of the United States upon fulfillment of the following conditions:

(a) The naturalization of both parents; or

(b) The naturalization of the surviving parent if one of the parents is deceased; or

(c) The naturalization of the parent having legal custody of the child when there has been a legal separation of the parents; and if—

(d) Such naturalization takes place while such child is under the age of eighteen years; and

(e) Such child is residing in the United States at the time of the naturalization of the parent last naturalized under subsection (a) of this section, or the parent naturalized under subsection (b) or (c) of this section, or thereafter begins to reside permanently in the United States while under the age of eighteen years. Oct. 14, 1940, c. 876, Title I, §314, 54 Stat. 1145.

§ 715. Same; one parent a United States citizen at time of petition.—A child born outside of the United States, one of whose parents is at the time of petitioning for the naturalization of the child, a citizen of the United States, either by birth or naturalization, may be naturalized if under the age of eighteen years and not otherwise disqualified from becoming a citizen and is residing permanently in the United States with the citizen parent, on the petition of such citizen parent, without a declaration of intention, upon compliance with the applicable procedural provisions of the naturalization laws. Oct. 14, 1940, c. 876, Title I, §315, 54 Stat. 1146.

§ 716. Children adopted by United States citizens.—An adopted child may, if not otherwise disqualified from becoming a citizen, be naturalized before reaching the age of eighteen years upon the petition of the adoptive parent or parents if the

child has resided continuously in the United States for at least two years immediately preceding the date of filing such petition, upon compliance with all the applicable procedural provisions of the naturalization laws, if the adoptive parent or parents are citizens of the United States, and the child was:

(a) Lawfully admitted to the United States for permanent residence; and

(b) Adopted in the United States before reaching the age of sixteen years; and

(c) Adopted and in the legal custody of the adoptive parent or parents for at least two years prior to the filing of the petition for the child's naturalization. Oct. 14, 1940, c. 876, Title I, §316, 54 Stat. 1146.

§ 717. Former citizens of United States excepted from certain requirements; citizenship lost by spouse's alienage or loss of United States citizenship, or by entering armed forces of foreign state and acquiring its nationality.—(a) A person who was a citizen of the United States and who prior to September 22, 1922, lost United States citizenship by marriage to an alien or by the spouse's loss of United States citizenship, and any person who lost United States citizenship on or after September 22, 1922, by marriage to an alien ineligible to citizenship, may, if no other nationality was acquired by affirmative act other than such marriage, be naturalized upon compliance with all requirements of the naturalization laws with the following exceptions:

(1) No declaration of intention and no certificate of arrival shall be required, and no period of residence within the United States or within the State where the petition is filed shall be required.

(2) The petition need not set forth that it is the intention of the petitioner to, reside permanently within the United States.

(3) The petition may be filed in any court having naturalization jurisdiction, regardless of the residence of the petitioner.

(4) The petition may be heard at any time after filing if there is attached to the petition at the time of filing a certificate from a naturalization examiner stating that the petitioner has appeared before such examiner for examination.

Such person shall have, from and after the naturalization, the same citizenship status as that which existed immediately prior to its loss.

(b) (1) From and after the effective date of this chapter, a woman, who was a citizen of the United States at birth, and who has or is believed to have lost her United States citizenship solely by reason of her marriage prior to September 22, 1922, to an alien, and whose marital status with such alien has or shall have terminated, if no other nationality was acquired by affirmative act other than such marriage, shall, from and after the taking of the oath of allegiance prescribed by subsection (b) of section 735 of this chapter, be deemed to be a citizen of the United States to the same extent as though her marriage to said alien had taken place on or after September 22, 1922.

(2) Such oath of allegiance may be taken abroad before a diplomatic or consular officer of the United States, or in the United States before the judge or clerk of a naturalization court.

(3) Such oath of allegiance shall be entered in the records of the appropriate embassy or legation or consulate or naturalization court, and upon de-

mand, a certified copy of the proceedings, including a copy of the oath administered, under the seal of the embassy or legation or consulate or naturalization court, shall be delivered to such woman at a cost not exceeding \$1, which certified copy shall be evidence of the facts stated therein before any court of record or judicial tribunal and in any department of the United States.

(c) A person who shall have been a citizen of the United States and also a national of a foreign state, and who shall have lost his citizenship of the United States under the provisions of section 801 (c) of this chapter, shall be entitled to the benefits of the provisions of subsection (a) of this section, except that contained in subdivision (2) thereof. Such person, if abroad, may enter the United States as a nonquota immigrant, for the purpose of recovering his citizenship, upon compliance with the provisions of sections 101, 102, 105, 108, 109, 113, 115, 116, 132, 136, 138, 139, 142-156, 158-169, 171, 173, 175, 177-179, 201-204, 205-213, 214-226, and 229 of this title. Oct. 14, 1940, c. 876, Title I, §317, 54 Stat. 1146.

§ 718. Same; citizenship lost by parent's expatriation.—(a) A former citizen of the United States expatriated through the expatriation of such person's parent or parents and who has not acquired the nationality of another country by any affirmative act other than the expatriation of his parent or parents may be naturalized upon filing a petition for naturalization before reaching the age of twenty-five years and upon compliance with all requirements of the naturalization laws with the following exceptions:

(1) No declaration of intention and no certificate of arrival and no period of residence within the United States or in a State shall be required;

(2) The petition may be filed in any court having naturalization jurisdiction, regardless of the residence of the petitioner;

(3) If there is attached to the petition at the time of filing, a certificate from a naturalization examiner stating that the petitioner has appeared before him for examination, the petition may be heard at any time after filing; and

(4) Proof that the petitioner was at the time his petition was filed and at the time of the final hearing thereon a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States, and that he intends to reside permanently in the United States shall be made by any means satisfactory to the naturalization court.

(b) No former citizen of the United States, expatriated through the expatriation of such person's parent or parents, shall be obliged to comply with the requirements of the immigration laws, if he has not acquired the nationality of another country by any affirmative act other than the expatriation of his parent or parents, and if he has come or shall come to the United States before reaching the age of twenty-five years.

(c) After his naturalization such person shall have the same citizenship status as if he had not been expatriated. Oct. 14, 1940, c. 876, Title I, §318, 54 Stat. 1147.

§ 719. Same; minor child's citizenship lost through cancellation of parent's naturalization.—

(a) A person who as a minor child lost citizenship of the United States through the cancellation of the parent's naturalization on grounds other than actual fraud or presumptive fraud as specified in the second paragraph of section 405 of this title, or who shall lose citizenship of the United States under subsection (c) of section 738 of this chapter, may, if such person resided in the United States at the time of such cancellation and if, within two years after such cancellation or within two years after the effective date of this section, such person files a petition for naturalization or such a petition is filed on such person's behalf by a parent or guardian if such person is under the age of eighteen years, be naturalized upon compliance with all requirements of the naturalization laws with the exception that no declaration of intention shall be required and the required five-year period of residence in the United States need not be continuous.

(b) Citizenship acquired under this section shall begin as of the date of the person's naturalization, except that in those cases where the person has resided continuously in the United States from the date of the cancellation of the parent's naturalization to the date of the person's naturalization under this section, the citizenship of such person shall relate back to the date of the parent's naturalization which has been canceled or to the date of such person's arrival in the United States for permanent residence if such date was subsequent to the date of naturalization of said parent. Oct. 14, 1940, c. 876, Title I, §319, 54 Stat. 1148.

§ 720. Persons misinformed of citizenship status excepted from certain requirements.—A person not an alien enemy, who resided uninterruptedly within the United States during the period of five years next preceding July 1, 1920, and was on that date otherwise qualified to become a citizen of the United States, except that such person had not made a declaration of intention required by law and who during or prior to that time, because of misinformation regarding the citizenship status of such person, erroneously exercised the rights and performed the duties of a citizen of the United States in good faith, may file the petition for naturalization prescribed by law without making the preliminary declaration of intention, and upon satisfactory proof to the court that petitioner has so acted may be admitted as a citizen of the United States upon complying with the other requirements of the naturalization laws. Oct. 14, 1940, c. 876, Title I, §320, 54 Stat. 1148.

§ 720a. Aliens spending childhood in United States excepted from certain requirements.—Any alien who at the time of entering the United States is less than sixteen years of age may upon attaining the age of twenty-one years, if eligible to citizenship, be naturalized upon full and complete compliance with all the requirements of the naturalization laws, subject to the following exceptions:

(a) No declaration of intention shall be required; and

(b) The petition for naturalization shall be filed within one year after such alien attains the age of twenty-one years.

Nothing in this section shall be construed as preventing its application to aliens who entered

the United States prior to its enactment. July 2, 1940, c. 512, §§ 1, 2, 54 Stat. 715.

Editor's Note.—This section is not a part of the Nationality Code of 1940.

§ 721. Nationals but not citizens of United States.—A person not a citizen who owes permanent allegiance to the United States, and who is otherwise qualified may, if he becomes a resident of any State, be naturalized upon compliance with the requirements of this chapter, except that in petitions for naturalization filed under the provisions of this section, residence within the United States within the meaning of this chapter shall include residence within any of the outlying possessions of the United States. Oct. 14, 1940, c. 876, Title I, §321, 54 Stat. 1148.

§ 722. Puerto Ricans.—A person born in Puerto Rico of alien parents, referred to in the last paragraph of section 5, act of March 2, 1917, ch. 145, 39 Stat. 953, and in section 5a, of the said act, as amended by section 2 of the act of March 4, 1927, ch. 503, 44 Stat. 1418, who did not exercise the privilege granted of becoming a citizen of the United States, may make the declaration provided in said paragraph at any time, and from and after the making of such declaration shall be a citizen of the United States. Oct. 14, 1940, c. 876, Title I, §322, 54 Stat. 1148.

§ 723. Former United States citizens losing citizenship by entering armed forces of allied country during World War I or II.—A person who while a citizen of the United States and during the first or second World War, entered the military or naval service of any country at war with a country with which the United States was or is at war, who has lost citizenship of the United States by reason of any oath or obligation taken for the purpose of entering such service, or by reason of entering or serving in such armed forces, and who intends to reside permanently in the United States, may be naturalized by taking before any naturalization court specified in subsection (a) of section 701 of this title, the oaths prescribed by section 735 of this title. Any such person who has lost citizenship of the United States during the second World War may, if he so desires, be naturalized by taking, before any diplomatic or consular officer of the United States abroad, the oaths prescribed by section 735 of this title. For the purposes of this section, the second World War shall be deemed to have commenced on September 1, 1939, and shall continue until such time as the United States shall cease to be in a state of war. Certified copies of such oath shall be sent by such diplomatic or consular officer or such court to the Department of State and to the Department of Justice. Oct. 14, 1940, c. 876, Title I, §323, 54 Stat. 1149; Apr. 2, 1942, c. 208, 56 Stat. 198.

§ 723a. Alien veterans.—A person who was a member of the military or naval forces of the United States at any time after April 5, 1917, and before November 12, 1918, or at any time after April 20, 1898, and before July 5, 1902, or who served on the Mexican Border as a member of the regular Army or National Guard from June 1916, to April 1917, who is not an alien ineligible to citizenship, who was not at any time during such period or thereafter separated from such forces under other than honorable conditions, who was

not a conscientious objector who performed no military duty whatever or refused to wear the uniform, and who was not at any time during such period or thereafter discharged from the military or naval forces on account of his alienage, shall, if he has resided in the United States continuously for at least two years pursuant to a legal admission for permanent residence in lieu of the usual five years' residence within the United States and six months' residence within the State of his residence at the time of filing the petition for naturalization, during all of which two-year period he has behaved as a person of good moral character, be entitled at any time within one year after December 7, 1942, to naturalization upon compliance with all of the requirements of the naturalization laws, except that—

(1) no declaration of intention shall be required;

(2) no certificate of arrival shall be required unless such person's admission to the United States was subsequent to March 3, 1924; and

(3) no residence within the jurisdiction of the court shall be required.

Such petitioner shall verify his petition for naturalization by the affidavits of at least two credible witnesses who are citizens of the United States, or shall furnish the depositions of two such witnesses made in accordance with the requirements of subsection (e) of section 727 of this subchapter, to prove the required residence, good moral character, attachment to the principles of the Constitution of the United States, and favorable disposition toward the good order and happiness of the United States. On applications filed for any benefits under this section, the requirement of fees for naturalization documents is hereby waived. Oct. 14, 1940, c. 876, Title I, §323a, as added Dec. 7, 1942, c. 690, 56 Stat. 1041.

§ 724. Persons serving in armed forces of United States.—(a) A person, including a native-born Filipino, who has served honorably at any time in the United States Army, Navy, Marine Corps, or Coast Guard for a period or periods aggregating three years and who, if separated from such service, was separated under honorable conditions, may be naturalized without having resided, continuously immediately preceding the date of filing such person's petition, in the United States for at least five years and in the State in which the petition for naturalization is filed for at least six months, if such petition is filed while the petitioner is still in the service or within six months after the termination of such service.

(b) A person filing a petition under subsection (a) of this section shall comply in all respects with the requirements of this subchapter except that—

(1) No declaration of intention shall be required;

(2) No certificate of arrival shall be required;

(3) No residence within the jurisdiction of the court shall be required;

(4) Such petitioner may be naturalized immediately if the petitioner be then actually in any of the services prescribed in subsection (a) of this section, and if, before filing the petition for naturalization, such petitioner and at least two verifying witnesses to the petition, who shall be citizens of the United States and who shall identify petitioner as the person who rendered the service upon which the petition is based, have appeared before and been examined by a representative of the service.

(c) In case such petitioner's service was not continuous, petitioner's residence in the United States and State, good moral character, attachment to the principles of the Constitution of the United States, and favorable disposition toward the good order and happiness of the United States, during any period within five years immediately preceding the date of filing said petition between the periods of petitioner's service in the United States Army, Navy, Marine Corps, or Coast Guard, shall be verified in the petition filed under the provisions of subsection (a) of this section, and proved at the final hearing thereon by witnesses, citizens of the United States, in the same manner as required by section 709. Such verification and proof shall also be made as to any period between the termination of petitioner's service and the filing of the petition for naturalization.

(d) The petitioner shall comply with the requirements of section 709 as to continuous residence in the United States for at least five years and in the State in which the petition is filed for at least six months, immediately preceding the date of filing the petition, if the termination of such service has been more than six months preceding the date of filing the petition for naturalization, except that such service shall be considered as residence within the United States or the State.

(e) Any such period or periods of service under honorable conditions, and good moral character, attachment to the principles of the Constitution of the United States, and favorable disposition toward the good order and happiness of the United States, during such service, shall be proved by duly authenticated copies of records of the executive departments having custody of the records of such service, and such authenticated copies of records shall be accepted in lieu of affidavits and testimony or depositions of witnesses. Oct. 14, 1940, c. 876, Title I, §324, 54 Stat. 1149.

§ 725. Persons serving on United States Government or private vessels.—(a) A person who has served honorably or with good conduct for an aggregate period of at least five years (1) on board of any vessel of the United States Government other than in the United States Navy, Marine Corps, or Coast Guard, or (2) on board vessels of more than twenty tons burden, whether or not documented under the laws of the United States, and whether public or private, which are not foreign vessels, and whose home port is in the United States, may be naturalized without having resided, continuously immediately preceding the date of filing such person's petition, in the United States for at least five years, and in the State in which the petition for naturalization is filed for at least six months, if such petition is filed while the petitioner is still in the service on a reenlistment, reappointment, or reshipment, or within six months after an honorable discharge or separation therefrom.

(b) The provisions of subsections (b), (c), (d), and (e) of section 724 shall apply to petitions for naturalization filed under this section, except that service with good conduct on vessels described in subsection (a) (2) of this section may be proved by certificates from the masters of such vessels. Oct. 14, 1940, c. 876, Title I, §325, 54 Stat. 1150.

§ 726. Alien enemies.—(a) An alien who is a native, citizen, subject, or denizen of any country,

state, or sovereignty with which the United States is at war may be naturalized as a citizen of the United States if such alien's declaration of intention was made not less than two years prior to the beginning of the state of war, or such alien was at the beginning of the state of war entitled to become a citizen of the United States without making a declaration of intention, or his petition for naturalization shall at the beginning of the state of war be pending and the petitioner is otherwise entitled to admission, notwithstanding such petitioner shall be an alien enemy at the time and in the manner prescribed by the laws passed upon that subject.

(b) An alien embraced within this section shall not have such alien's petition for naturalization called for a hearing, or heard, except after ninety days' notice given by the clerk of the court to the Commissioner to be represented at the hearing, and the Commissioner's objection to such final hearing shall cause the petition to be continued from time to time for so long as the Commissioner may require.

(c) Nothing herein contained shall be taken or construed to interfere with or prevent the apprehension and removal, agreeably to law, of any alien enemy at any time previous to the actual naturalization of such alien.

(d) The President of the United States may, in his discretion, upon investigation and report by the Department of Justice fully establishing the loyalty of any alien enemy not included in the foregoing exemption, except such alien enemy from the classification of alien enemy, and thereupon such alien shall have the privilege of applying for naturalization. Oct. 14, 1940, c. 876, Title I, §326, 54 Stat. 1150.

§ 727. Administration of naturalization laws; rules and regulations; instruction in citizenship; forms; oaths; depositions; documents in evidence; photographic studio.—(a) The Commissioner, or, in his absence, a Deputy Commissioner, shall have charge of the administration of the naturalization laws, under the immediate direction of the Attorney General, to whom the Commissioner shall report directly upon all naturalization matters annually and as otherwise required.

(b) The Commissioner, with the approval of the Attorney General, shall make such rules and regulations as may be necessary to carry into effect the provisions of this subchapter and is authorized to prescribe the scope and nature of the examination of petitioners for naturalization as to their admissibility to citizenship for the purpose of making appropriate recommendations to the naturalization courts. Such examination shall be limited to inquiry concerning the applicant's residence, good moral character, understanding of and attachment to the fundamental principles of the Constitution of the United States, and other qualifications to become a naturalized citizen as required by law, and shall be uniform throughout the United States.

(c) The Commissioner is authorized to promote instruction and training in citizenship responsibilities of applicants for naturalization including the sending of names of candidates for naturalization to the public schools, preparing and distributing citizenship textbooks to such

candidates as are receiving instruction in preparation for citizenship within or under the supervision of the public schools, preparing and distributing monthly an immigration and naturalization bulletin and securing the aid of and cooperating with official State and National organizations, including those concerned with vocational education.

(d) The Commissioner shall prescribe and furnish such forms as may be required to give effect to the provisions of this subchapter, and only such forms as may be so provided shall be legal. All certificates of naturalization and of citizenship shall be printed on safety paper and shall be consecutively numbered in separate series.

(e) Members of the Service may be designated by the Commissioner or a Deputy Commissioner to administer oaths and to take depositions without charge in matters relating to the administration of the naturalization and citizenship laws. In cases where there is a likelihood of unusual delay or of hardship, the Commissioner or a Deputy Commissioner may, in his discretion, authorize such depositions to be taken before a postmaster without charge, or before a notary public or other person authorized to administer oaths for general purposes.

(f) A certificate of naturalization or of citizenship issued by the Commissioner or a Deputy Commissioner under the authority of this chapter shall have the same effect in all courts, tribunals, and public offices of the United States, at home and abroad, of the District of Columbia, and of each State, Territory, and insular possession of the United States, as a certificate of naturalization or of citizenship issued by a court having naturalization jurisdiction.

(g) Certifications and certified copies of all papers, documents, certificates, and records required or authorized to be issued, used, filed, recorded, or kept under any and all provisions of this subchapter shall be admitted in evidence equally with the originals in any and all cases and proceedings under this chapter and in all cases and proceedings in which the originals thereof might be admissible as evidence.

(h) The officers in charge of property owned or leased by the Government are authorized, upon the recommendation of the Attorney General, to provide quarters, without payment of rent, in any building occupied by the Service, for a photographic studio, operated by welfare organizations without profit and solely for the benefit of aliens seeking naturalization. Such studio shall be under the supervision of the Commissioner. Oct. 14, 1940, c. 876, Title I, §327, 54 Stat. 1150.

§ 727a. Patriotic address to new citizens.—Either at the time of the rendition of the decree of naturalization or at such other time as the judge may fix, the judge or someone designated by him shall address the newly naturalized citizen upon the form and genius of our Government and the privileges and responsibilities of citizenship; it being the intent and purpose of this section to enlist the aid of the judiciary, in cooperation with civil and educational authorities, and patriotic organizations in a continuous effort to dignify and emphasize the significance of citizenship. May 3, 1940, c. 183, §2, 54 Stat. 178.

§ 728. Registry of aliens.—(a) The Commissioner shall cause to be made, for use in complying with the requirements of this subchapter, a registry of each person arriving in the United States after the effective date of this chapter, of the name, age, occupation, personal description (including height, complexion, color of hair and eyes, and fingerprints), the date and place of birth, nationality, the last residence, the intended place of residence in the United States, the date and place of arrival of said person, and the name of vessel or other means of transportation, upon which said person arrived.

(b) Registry of aliens at ports of entry required by subsection (a) of this section may be made as to any alien not ineligible to citizenship in whose case there is no record of admission for permanent residence, if such alien shall make a satisfactory showing to the Commissioner, in accordance with regulations prescribed by the Commissioner, with the approval of the Attorney General, that such alien—

- (1) Entered the United States prior to July 1, 1924;
- (2) Has resided in the United States continuously since such entry;
- (3) Is a person of good moral character; and
- (4) Is not subject to deportation.

(c) For the purposes of the immigration laws and naturalization laws an alien, in respect of whom a record of registry has been made as authorized by this section, shall be deemed to have been lawfully admitted to the United States for permanent residence as of the date of such alien's entry. Oct. 14, 1940, c. 876, Title I, §328, 54 Stat. 1151.

§ 729. Certificate of arrival.—(a) The certificate of arrival required by this subchapter may be issued upon application to the Commissioner in accordance with regulations prescribed by the Commissioner, with the approval of the Attorney General, upon the making of a record of registry as authorized by section 728 of this chapter.

(b) No declaration of intention shall be made by any person who arrived in the United States after June 29, 1906, until such person's lawful entry for permanent residence shall have been established, and a certificate showing the date, place, and manner of arrival in the United States shall have been issued. It shall be the duty of the Commissioner or a Deputy Commissioner to cause to be issued such certificate. Oct. 14, 1940, c. 876, Title I, §329, 54 Stat. 1152.

§ 730. Photographs.—(a) Two Photographs of the applicant shall be signed by and furnished by each applicant for a declaration of intention and by each petitioner for naturalization or citizenship. One of such photographs shall be affixed by the clerk of the court to the triplicate declaration of intention issued to the declarant and one to the duplicate declaration of intention required to be forwarded to the Service; and one of such photographs shall be affixed to the original certificate of naturalization issued to the naturalized citizen and one to the duplicate certificate of naturalization required to be forwarded to the Service.

(b) Two photographs of the applicant shall be furnished by each applicant for —

- (1) A record of registry;
- (2) A certificate of derivative citizenship;
- (3) A certificate of naturalization;
- (4) A special certificate;
- (5) A declaration of intention or a certificate of naturalization or of citizenship, in lieu of one lost, mutilated, or destroyed; and
- (6) A new certificate of citizenship in the new name of any naturalized citizen who, subsequent to naturalization, has had such citizen's name changed by order of a court of competent jurisdiction or by marriage.

One such photograph shall be affixed to each such declaration or certificate issued by the Commissioner and one shall be affixed to the copy of such declaration or certificate retained by the Service. Oct. 14, 1940, c. 876, Title I, §330, 54 Stat. 1152.

§ 731. Declaration of intention.—An applicant for naturalization shall make, under oath before, and only in the office of, the clerk of court or such clerk's authorized deputy, regardless of the place of residence in the United States of the applicant, not less than two nor more than seven years at least prior to the applicant's petition for naturalization, and after the applicant has reached the age of eighteen years, a signed declaration of intention to become a citizen of the United States, which declaration shall be set forth in writing, in triplicate, and shall contain substantially the following averments by such applicant:

- (1) My full, true, and correct name is (full, true name, without abbreviation, and any other name which has been used, must appear here).
- (2) My present place of residence is (number and street), (city or town), (county), (State).
- (3) My occupation is
- (4) I am years old.
- (5) My personal description is as follows:

Sex; color; complexion; color of eyes; color of hair; height feet inches, weight pounds; visible distinctive marks; race; present nationality

(6) I was born on (month, day, and year), in (city or town), (county, district, province, or state), (country).

(7) I am married; the name of my wife or husband is; we were married on (month, day, and year), at (city or town), (state or country); he or she was born at (city or town), (county, district, province, or state), (country), on (month, day, and year); and entered the United States at (city or town), (state), on (month, day, and year), for permanent residence in the United States, and now resides at (city or town), (state or country).

(8) I have children; and the name, sex, date, and place of birth, and present place of residence of each of said children who is living are as follows:

(9) My place of last foreign residence was (city or town), (county, district, or province), (country).

(10) I emigrated to the United States from (city or town), (country).

(11) My lawful entry for permanent residence in the United States was at (city or town), (State), under the name of on (month, day, and year), on the (name of vessel or other means of conveyance).

(12) I have been absent from the United States, having departed therefrom on (dates of departures), from the port or ports of upon the following vessels or other means of conveyance: (names of vessels or conveyances upon departures); and returned to the United States on (dates of return to the United States), at the port or ports of upon the following vessels or other means of conveyance (names of vessels or conveyances upon return).

(13) I have heretofore made declaration of intention number on (month, day, and year), at (city or town), (county), (State), in the (name of court).

(14) I am not an anarchist, nor a disbeliever in or opposed to organized government, nor a member of or affiliated with any organization or body of persons teaching disbelief in or opposition to organized government.

(15) It is my intention in good faith to become a citizen of the United States and to reside permanently therein.

(16) I will, before being admitted to citizenship, renounce forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which at the time of admission to citizenship I may be a subject or citizen.

(17) I certify that the photograph affixed to the duplicate and triplicate hereof is a likeness of me and was signed by me.

(18) So help me God. Oct. 14, 1940, c. 876, Title I, §331, 54 Stat. 1153.

§ 732. Petition for naturalization.—(a) An applicant for naturalization shall, not less than two nor more than ten years after such declaration of intention has been made, make and file in the office of the clerk of a naturalization court, in duplicate, a sworn petition in writing, signed by the applicant in the applicant's own handwriting, if physically able to write, and duly verified by witnesses, which petition shall contain substantially the following averments by such applicant.

(1) My full, true, and correct name is (full, true name, without abbreviation, and any other name which has been used, must appear here).

(2) My present place of residence is (number and street), (city or town), (county), (State).

(3) My occupation is

(4) I am years old.

(5) My personal description is: Sex; color; complexion; color of eyes; color of hair; height feet inches, weight pounds; visible distinctive marks; race; present nationality

(6) I was born on (month, day, and year), in (city or town), (county, district, province, or state), (country).

(7) I am married; the name of my wife or husband is; we were married on (month, day, and year), at (city or town), (state or country); he or she was born at (city or town), (county, district, province, or state), (country), on (month, day, and year); entered the United States at (city or town), (State), on (month, day, and year), for permanent residence in the United States, and now resides at (city or town), (state or country).

(8) I have children; and the name, sex, date, and place of birth, and present place of residence of each of said children who is living are as follows:

(9) My last place of foreign residence was (city or town), (county, district, or province), (country).

(10) I emigrated to the United States from (city or town), (country).

(11) My lawful entry for permanent residence in the United States was at (city or town), (State), under the name of, on (month, day, and year), on the (name of vessel or other means of conveyance) as shown by the certificate of my arrival attached to this petition.

(12) I have been absent from the United States, having departed therefrom on (dates of departures), from the port or ports of, upon the following vessels or other means of conveyance: (names of vessels or conveyances upon departures); and returned to the United States on (dates of return to the United States), at the port or ports of, upon the following vessels or other means of conveyance: (names of vessels or conveyances upon return).

(13) I have resided continuously in the United States of America for the term of five years at least immediately preceding the date of this petition, to wit, since, and continuously in the State in which this petition is made for the term of six months at least immediately preceding the date of this petition, to wit, since

(14) I declared my intention to become a citizen of the United States on (month, day, and year), in the (name of court) Court of, at (city or town), (State).

(15) I have heretofore made petition for naturalization number, on (month, day, and year), at (city or town), (county), (State), in the (name of court), and such petition was dismissed or denied by that Court for the following reasons and causes, to wit:, and the cause of such dismissal or denial has since been cured or removed.

(16) I am not an anarchist, nor a disbeliever in or opposed to organized government, nor a member of or affiliated with any organization or body of persons teaching disbelief in or opposition to organized government.

(17) I am attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the United States.

(18) It is my intention in good faith to become a citizen of the United States, and to reside permanently therein.

(19) It is my intention to renounce absolutely and forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which at this time I am a subject or citizen.

(20) Attached hereto and made a part of this, my petition for naturalization, are my declaration of intention to become a citizen of the United States (if such declaration of intention be required by the naturalization law), a certificate of arrival from the Immigration and Naturalization Service of my said lawful entry into the United States for permanent residence (if such certificate of arrival be required by the naturalization law), and the affidavits of the two verifying witnesses required by law.

(21) Wherefore, I, petitioner for naturalization, pray that I may be admitted a citizen of the United States of America, and that my name be changed to

(22) I, aforesaid petitioner, being duly sworn, depose and say that I have (read) (heard read) this petition and know that the same is true of my own knowledge except as to matters herein stated to be alleged upon information and belief, and that as to those matters I believe it to be true; and that this petition is signed by me with my full, true, and correct name. So help me God. (full, true, and correct name of petitioner).

(b) The applicant's petition for naturalization, in addition to the averments required by subsection (a) of this section, shall include averments of all other facts which may be material to the applicant's naturalization and required to be proved upon the hearing of such petition.

(c) At the time of filing the petition for naturalization there shall be filed with the clerk of court a certificate from the Service, if the petitioner arrived in the United States after June 29, 1906, stating the date, place and manner of petitioner's arrival in the United States, and the declaration of intention of such petitioner, which certificate and declaration shall be attached to and made a part of said petition.

(d) Petitions for naturalization may be made and filed during the term time or vacation of the court and shall be docketed the same day as filed, but final action thereon shall be had only on stated days, to be fixed by rule of the court. Oct. 14, 1940, c. 876, Title I, §332, 54 Stat. 1154.

§ 733. Hearing of petitions; preliminary hearings.—(a) The Commissioner or a Deputy Commissioner shall designate members of the Service to conduct preliminary hearings upon petitions for naturalization to any naturalization court and to make findings and recommendations thereon to such court. For such purposes any such designated examiner is hereby authorized to take testimony concerning any matter touching or in any way affecting the admissibility of any petitioner for naturalization, to subpoena witnesses, and to administer oaths, including the oath of the petitioner to the petition for naturalization and the oath of petitioner's witnesses.

(b) The findings of any such designated

examiner upon any such preliminary^a hearing shall be submitted to the court at the final hearing upon the petition with a recommendation that the petition be granted, or denied, or continued, with the reasons therefor. Such findings and recommendations shall be accompanied by duplicate lists containing the names of the petitioners, classified according to the character of the recommendations, and signed by the designated examiner. The judge to whom such findings and recommendations are submitted shall, if he approve such recommendations, enter a written order with such exceptions as the judge may deem proper, by subscribing his name to each such list when corrected to conform to his conclusions upon such recommendations. One of such lists shall thereafter be filed permanently of record in such court and the duplicate list shall be sent by the clerk of such court to the Commissioner. Oct. 14, 1940, c. 876, Title I, §333, 54 Stat. 1156.

§ 734. Same; final hearings.—(a) Every final hearing upon a petition for naturalization shall be had in open court before a judge or judges thereof, and every final order which may be made upon such petition shall be under the hand of the court and entered in full upon a record kept for that purpose, and upon such final hearing of such petition the applicant, and, except as provided in subsection (b) of this section, the witnesses shall be examined under oath before the court and in the presence of the court.

(b) The requirement of subsection (a) of this section for the examination of the petitioner and witnesses under oath before the court and in the presence of the court shall not apply in any case where a designated examiner has conducted the preliminary hearing authorized by subsection (a) of section 733; except that the court may, in its discretion, and shall, upon demand of the petitioner, require the examination of the petitioner and the witnesses under oath before the court and in the presence of the court.

(c) Except as otherwise specifically provided in this chapter, no final hearing shall be held on any petition for naturalization nor shall any person be naturalized nor shall any certificate of naturalization be issued by any court within thirty days after the filing of the petition for naturalization, nor within sixty days preceding the holding of any general election within the territorial jurisdiction of the naturalization court.

(d) The United States shall have the right to appear before any court in any naturalization proceedings for the purpose of cross-examining the petitioner and the witnesses produced in support of the petition concerning any matter touching or in any way affecting the petitioner's right to admission to citizenship, and shall have the right to call witnesses, produce evidence, and be heard in opposition to the granting of any petition in naturalization proceedings.

(e) It shall be lawful at the time and as a part of the naturalization of any person, for the court, in its discretion, upon the prayer of the petitioner included in the petition for naturalization of such person, to make a decree changing the name of said person, and the certificate of naturalization

shall be issued in accordance therewith. Oct. 14, 1940, c. 876, Title I, §334, 54 Stat. 1156.

§ 735. Oath of renunciation and allegiance.—(a) A person who has petitioned for naturalization shall, before being admitted to citizenship, take an oath in open court (1) to support the Constitution of the United States, (2) to renounce and abjure absolutely and entirely all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which the petitioner was before a subject or citizen, (3) to support and defend the Constitution and the laws of the United States against all enemies, foreign and domestic, and (4) to bear true faith and allegiance to the same, provided that in the case of the naturalization of a child under the provisions of section 715 or 716 the naturalization court may waive the taking of such oath if in the opinion of the court the child is too young to understand its meaning.

(b) The oath prescribed by subsection (a) of this section which the petitioner for naturalization is required to take, shall be in the following form:

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely without any mental reservation or purpose of evasion: So help me God. In acknowledgment whereof I have hereunto affixed my signature.

(c) In case the person petitioning for naturalization has borne any hereditary title, or has been of any of the orders of nobility in any foreign state, the petitioner shall, in addition to complying with the requirements of subsections (a) and (b) of this section, make under oath in open court, in the court to which the petition for naturalization is made, an express renunciation of such title or order of nobility, and such renunciation shall be recorded in the court as a part of such proceedings. Oct. 14, 1940, c. 876, Title I, §335, 54 Stat. 1157.

§ 736. Certificate of naturalization.—A person, admitted to citizenship by a naturalization court in conformity with the provisions of this chapter, shall be entitled upon such admission to receive from the clerk of such court a certificate of naturalization, which shall contain substantially the following information: number of petition for naturalization; number of certificate of naturalization; date of naturalization; name, signature, place of residence, autographed photograph, and personal description of the naturalized person, including age, sex, marital status, and country of former nationality; title, venue, and location of the naturalization court; statement that the court, having found that the petitioner intends to reside permanently in the United States, had complied in all respects with all of the applicable provisions of the naturalization laws of the United States, and was entitled to be admitted a citizen of the United States of America, there-

upon ordered that the petitioner be admitted as a citizen of the United States of America; attestation of the clerk of the naturalization court; and seal of the court. Oct. 14, 1940, c. 876, Title I, §336, 54 Stat. 1157.

§ 737. Functions and duties of clerks of courts.

—(a) It is hereby made the duty of the clerk of each and every naturalization court to administer the oath in the clerk's office to each applicant for a declaration of intention made before such clerk, and to retain the original of such declaration of intention for the permanent files of the court, to forward the duplicate thereof to the Commissioner within thirty days after the close of the month in which such declaration was filed, and to furnish the declarant with the triplicate thereof.

(b) It shall be the duty of the clerk of each and every naturalization court to forward to the Commissioner a duplicate of each petition for naturalization within thirty days after the close of the month in which such petition was filed, and to forward to the Commissioner certified copies of such other proceedings and orders instituted in or issued out of said court affecting or relating to the naturalization of persons as may be required from time to time by the Commissioner.

(c) It shall be the duty of the clerk of each and every naturalization court to issue to any person admitted by such court to citizenship a certificate of naturalization and to forward to the Commissioner within thirty days after the close of the month in which such certificate was issued, a duplicate thereof, and to make and keep on file in the clerk's office a stub for each certificate so issued, whereon shall be entered a memorandum of all the essential facts set forth in such certificate, and to forward a duplicate of each such stub to the Commissioner within thirty days after the close of the month in which such certificate was issued.

(d) It shall be the duty of the clerk of each and every naturalization court to report to the Commissioner, within thirty days after the close of the month in which the final hearing and decision of the court was had, the name and number of the petition of each and every person who shall be denied naturalization together with the cause of such denial.

(e) Clerks of courts shall be responsible for all blank certificates of naturalization received by them from time to time from the Commissioner, and shall account to the Commissioner for them whenever required to do so. No certificate of naturalization received by any clerk of court which may be defaced or injured in such manner as to prevent its use as herein provided shall in any case be destroyed, but such certificate shall be returned to the Commissioner.

(f) It shall be the duty of the clerk of each and every naturalization court to cause to be filed in chronological order in separate volumes, indexed, consecutively numbered, and made a part of the records of such court, all declarations of intention and petitions for naturalization. Oct. 14, 1940, c. 876, Title I, §337, 54 Stat. 1158.

§ 738. Revocation of naturalization.—(a) It shall be the duty of the United States district attorneys for the respective districts, upon affi-

davit showing good cause therefor, to institute proceedings on any court specified in subsection (a) of section 701 in the judicial district in which the naturalized citizen may reside at the time of bringing suit, for the purpose of revoking and setting aside the order admitting such person to citizenship and canceling the certificate of naturalization on the ground of fraud or on the ground that such order and certificate of naturalization were illegally procured.

(b) The party to whom was granted the naturalization alleged to have been fraudulently or illegally procured shall, in any such proceedings under subsection (a) of this section, have sixty days' personal notice in which to make answer to the petition of the United States; and if such naturalized person be absent from the United States or from the judicial district in which such person last had his residence, such notice shall be given by publication in the manner provided for the service of summons by publication or upon absentees by the laws of the State or the place where such suit is brought.

(c) If a person who shall have been naturalized shall, within five years after such naturalization, return to the country of such person's nativity, or go to any other foreign country, and take permanent residence therein, it shall be considered prima facie evidence of a lack of intention on the part of such person to become a permanent citizen of the United States at the time of filing such person's petition for naturalization, and, in the absence of countervailing evidence, it shall be sufficient in the proper proceeding to authorize the revocation and setting aside of the order admitting such person to citizenship and the cancellation of the certificate of naturalization as having been obtained through fraud. The diplomatic and consular officers of the United States in foreign countries shall from time to time, through the Department of State, furnish the Department of Justice with the names of those persons within their respective jurisdictions who have been so naturalized and who have taken permanent residence in the country of their nativity, or in any other foreign country, and such statements, duly certified, shall be admissible in evidence in all courts in proceedings to revoke and set aside the order admitting to citizenship and to cancel the certificate of naturalization.

(d) The revocation and setting aside of the order admitting any person to citizenship and canceling his certificate of naturalization under the provisions of subsection (a) of section 738 shall not, where such action takes place after the effective date of this chapter, result in the loss of citizenship or any right or privilege of citizenship which would have been derived by or available to a wife or minor child of the naturalized person had such naturalization not been revoked, but the citizenship and any such right or privilege of such wife or minor child shall be deemed valid to the extent that it shall not be affected by such revocation: Provided, That this subsection shall not apply in any case where the revocation and setting aside of the order was the result of actual fraud.

(e) When a person shall be convicted under this chapter of knowingly procuring naturaliza-

tion in violation of law, the court in which such conviction is had shall thereupon revoke, set aside, and declare void the final order admitting such person to citizenship, and shall declare the certificate of naturalization of such person to be canceled. Jurisdiction is hereby conferred on the courts having jurisdiction of the trial of such offense to make such adjudication.

(f) Whenever an order admitting an alien to citizenship shall be revoked and set aside or a certificate of naturalization shall be canceled, or both, as provided in this section, the court in which such judgment or decree is rendered shall make an order canceling such certificate and shall send a certified copy of such order to the Commissioner; in case such certificate was not originally issued by the court making such order, it shall direct the clerk of the naturalization court in which the order is revoked and set aside to transmit a copy of such order and judgment to the court out of which such certificate of naturalization shall have been originally issued. It shall thereupon be the duty of the clerk of the court receiving such certified copy of the order and judgment of the court to enter the same of record and to cancel such original certificate of naturalization, if there be any, upon the records and to notify the Commissioner of the entry of such order and of such cancellation. A person holding a certificate of naturalization or citizenship which has been canceled as provided by this section shall upon notice by the court by which the decree of cancellation was made, or by the Commissioner, surrender the same to the Commissioner.

(g) The provisions of this section shall apply not only to any naturalization granted and to certificates of naturalization and citizenship issued under the provisions of this chapter, but to any naturalization heretofore granted by any court, and to all certificates of naturalization and citizenship which may have been issued heretofore by any court or by the Commissioner based upon naturalization granted by any court. Oct. 14, 1940, c. 876, Title I, §338, 54 Stat. 1158.

§ 739. Certificates of derivative citizenship.—A person who claims to have derived United States citizenship through the naturalization of a parent or through the naturalization or citizenship of a spouse may apply to the Commissioner for a certificate of citizenship. Upon proof to the satisfaction of the Commissioner that the applicant is a citizen, and that the applicant's alleged citizenship was derived as claimed, and upon taking and subscribing before a member of the Service within the United States to the oath of allegiance required by this chapter of a petitioner for naturalization, such individual shall be furnished by the Commissioner or a Deputy Commissioner with a certificate of citizenship, but only if such individual is at the time within the United States. Oct. 14, 1940, c. 876, Title I, §339, 54 Stat. 1160.

§ 740. Revocation of certificates issued by Commissioner or deputy.—The Commissioner is authorized to cancel any certificate of citizenship or any copy of a declaration of intention or certificate of naturalization heretofore or hereafter issued by the Commissioner or a Deputy Commis-

sioner if it shall appear to the Commissioner's satisfaction that such document was illegally or fraudulently obtained from the Commissioner or a Deputy Commissioner; but the person to whom such document has been issued, shall be given at such person's last known place of address, written notice of the intention to cancel such document with the reasons therefor and shall be given at least sixty days in which to show cause why such document should not be canceled. The cancellation of any such document shall affect only the document and not the citizenship status of the person in whose name the document was issued. Oct. 14, 1940, c. 876, Title I, §340, 54 Stat. 1160.

§ 741. Documents and copies issued by Commissioner or deputy.—(a) A person who claims to have been naturalized in the United States under section 723 of this chapter may make application to the Commissioner for a certificate of naturalization. Upon proof to the satisfaction of the Commissioner or a Deputy Commissioner that the applicant is a citizen and that he has been naturalized as claimed in the application, such individual shall be furnished a certificate of naturalization by the Commissioner or a Deputy Commissioner, but only if the applicant is at the time within the United States.

(b) If any certificate of naturalization or citizenship issued to any citizen, or any declaration of intention furnished to any declarant, is lost, mutilated, or destroyed, the citizen or declarant may make application to the Commissioner for a new certificate or declaration. If the Commissioner or a Deputy Commissioner finds that the certificate or declaration is lost, mutilated, or destroyed, he shall issue to the applicant a new certificate or declaration. If the certificate or declaration has been mutilated, it shall be surrendered to the Commissioner or a Deputy Commissioner before the applicant may receive such new certificate or declaration. If the certificate or declaration has been lost, the applicant or any other person who may come into possession of it is hereby required to surrender it to the Commissioner or a Deputy Commissioner.

(c) The Commissioner or a Deputy Commissioner shall issue for any naturalized citizen, on such citizen's application therefor, a special certificate of naturalization for use by such citizen only for the purpose of obtaining recognition as a citizen of the United States by a foreign state. Such certificate when issued shall be furnished to the Secretary of the State for transmission to the proper authority in such foreign state.

(d) If the name of any naturalized citizen has, subsequent to naturalization, been changed by order of any court of competent jurisdiction, or by marriage, the citizen may make application for a new certificate of naturalization in the new name of such citizen. If the Commissioner or a Deputy Commissioner finds the name of the applicant to have been changed as claimed, the Commissioner or a Deputy Commissioner shall issue to the applicant a new certificate and shall notify the naturalization court of such action.

(e) The Commissioner or a Deputy Commissioner is authorized to make and issue, without fee, certifications of any part of the naturalization records of any court, or of any certificate of natu-

ralization or citizenship, for use in complying with any statute, State or Federal, or in any judicial proceeding. No such certification shall be made by any clerk of court except upon order of the court. Oct. 14, 1940, c. 876, Title I, §341, 54 Stat. 1160.

§ 742. Fiscal provisions; fees.—(a) The clerk of each and every naturalization court shall charge, collect, and account for the following fees:

(1) For receiving and filing a declaration of intention, and issuing a duplicate and triplicate thereof, \$2.50.

(2) For making, filing, and docketing a petition for naturalization, \$5, including the final hearing on such petition, if such hearing be held, and a certificate of naturalization, if the issuance of such certificate is authorized by the naturalization court.

(b) The Commissioner shall charge, collect, and account for the following fees:

(1) For application for record of registry, \$18.

(2) For the issuance of each certificate of arrival, \$2.50.

(3) For application for a declaration of intention in lieu of a declaration alleged to have been lost, mutilated, or destroyed, \$1.

(4) For application for a certificate of naturalization in lieu of a certificate alleged to have been lost, mutilated, or destroyed, \$1.

(5) For application for a certificate of derivative citizenship, \$5.

(6) For application for the issuance of a special certificate of citizenship to obtain recognition, \$5.

(7) For application for a certificate of naturalization under section 723, \$1.

(8) For application for a certificate of citizenship in changed name, \$5.

(9) Reasonable fees, with the approval of the Attorney General, in cases where such fees have not been established by law, to cover the cost of furnishing, to other than officials or agencies of the Federal Government, copies, whether certified or uncertified, of any part of the records, or information from the records, of the Service. Such fees shall not exceed a maximum of 25 cents per folio, with a minimum fee of 50 cents for any one such service, in addition to a fee of \$1 for any official certification furnished under seal.

(c) The clerk of any naturalization court specified in subsection (a) of section 701 (except the courts specified in subsection (d) of this section), shall account for and pay over to the Commissioner one-half of all fees up to the sum of \$6,000, and all fees in excess of \$6,000, collected by any such clerk in naturalization proceedings in any fiscal year.

(d) The clerk of any United States district court (except in Alaska) and the clerk of the District Court of the United States for the District of Columbia shall account for and pay over to the Commissioner all fees collected by any such clerks in naturalization proceedings.

(e) The accounting required by subsections (c) and (d) of this section shall be made and the fees paid over to the Commissioner by such respective clerks in their quarterly accounts which they are hereby required to render to the Commissioner within thirty days from the close of each quarter

of each and every fiscal year, in accordance with regulations prescribed by the Commissioner.

(f) The clerks of the various naturalization courts shall pay all additional clerical force that may be required in performing the duties imposed by this chapter upon clerks of courts from fees retained under the provisions of this section by such clerks in naturalization proceedings.

(g) All fees collected by the Commissioner and all fees paid over to the Commissioner by clerks of naturalization courts under the provisions of this chapter, shall be deposited by the Commissioner in the Treasury of the United States.

(h) In all naturalization proceedings in which an alien applying for a certificate of naturalization or of citizenship is represented by counsel, there is hereby established a limit of \$25 for counsel's fees, except where legal action before a court requires extended legal service when the court may approve a reasonable fee in excess of \$25.

(i) During the time when the United States is at war no clerk of a United States court shall charge or collect a naturalization fee from an alien in the military or naval service of the United States for filing a petition for naturalization or issuing a certificate of naturalization upon admission to citizenship, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected. A report of all transactions under this subsection shall be made to the Commissioner as in the case of other reports required of clerks of courts by this chapter.

(j) In addition to the other fees required by this chapter, the petitioner for naturalization shall, upon the filing of a petition for naturalization, deposit with and pay to the clerk of the naturalization court a sum of money sufficient to cover the expenses of subpoenaing and paying the legal fees of any witnesses for whom such petitioner may request a subpoena, and upon the final discharge of such witnesses, they shall receive, if they demand the same from the clerk, the customary and usual witness fees from the moneys which the petitioner shall have paid to such clerk for such purpose, and the residue, if any, shall be returned by the clerk to the petitioner. Oct. 14, 1940, c. 876, Title I, §342, 54 Stat. 1161.

§ 743. Same; mail.—All mail matter of whatever class, relating to naturalization, including duplicate papers required by law or regulation to be sent to the Service by the clerks of courts addressed to the department of Justice or the Service, or any official thereof, and endorsed "Official Business," shall be transmitted free of postage and by registered mail if necessary, and so marked. Oct. 14, 1940, c. 876, Title I, §343, 54 Stat. 1163.

§ 744. Same; textbooks for citizenship instruction.—Authorization is hereby granted for the publication and distribution of the citizenship textbook described in subsection (c) of section 727, and for the reimbursement of the printing and binding appropriation of the Department of Justice upon the records of the Treasury Department from the naturalization fees deposited in the Treasury through the Service for the cost of such publication and distribution, such reimbursement

to be made upon statements by the Commissioner of books so published and distributed. Oct. 14, 1940, c. 876, Title I, §344, 54 Stat. 1163.

§ 745. Compilation of naturalization statistics.—The Commissioner is authorized and directed to prepare from the records in the custody of the Service a report upon those heretofore seeking citizenship to show by nationalities their relation to the numbers of aliens annually arriving and to the prevailing census populations of the foreign born, their economic, vocational, and other classification, in statistical form, with analytical comment thereon, and to prepare such report annually hereafter. Payment for the equipment used in preparing such compilation shall be made from the appropriation, "Salaries and expenses, Immigration and Naturalization Service." Oct. 14, 1940, c. 876, Title I, §345, 54 Stat. 1163.

§ 746. Penal provisions.—(a) Offenses against chapter.—It is hereby made a felony for any alien or other person, whether an applicant for naturalization or citizenship, or otherwise, and whether an employee of the Government of the United States or not—

(1) Knowingly to make a false statement under oath, either orally or in writing, in any case, proceeding, or matter relating to, or under, or by virtue of any law of the United States relating to naturalization or citizenship.

(2) Knowingly to procure or attempt to procure—

a. The naturalization of any such person, contrary to the provisions of any law; or

b. Documentary or other evidence of naturalization or of citizenship of any such person, contrary to the provisions of any law.

(3) To procure or attempt to procure any documentary or other evidence of naturalization or of citizenship of any person knowing or having reason to believe that such person is not entitled thereto.

(4) To encourage, advise, aid, or assist any person—

a. Not then entitled or qualified under this chapter to apply for a declaration of intention, to apply for such declaration of intention, with knowledge or having reason to believe that such person was not then so entitled or qualified; or

b. Not then entitled or qualified under this chapter to secure a declaration of intention, to obtain such declaration of intention, with knowledge that such person was not then so entitled or qualified; or

c. Not then entitled or qualified under this chapter to apply for naturalization or citizenship, to apply for such naturalization or citizenship, with knowledge that such person was not then so entitled or qualified; or

d. Not then entitled or qualified under this chapter to obtain naturalization or citizenship, to obtain such naturalization or citizenship, with knowledge that such person was not then so entitled or qualified; or

e. Not then entitled or qualified under this chapter to apply for documentary or other evidence of naturalization or of citizenship, to apply for such documentary or other evidence of naturalization or of citizenship, with knowledge that

such person was not then so entitled or qualified; or

f. Not then entitled or qualified under this chapter to obtain documentary or other evidence of naturalization or of citizenship, to obtain such documentary or other evidence of naturalization or of citizenship, with knowledge that such person was not then so entitled or qualified.

(5) To encourage, aid, advise, or assist any person not entitled thereto to obtain, accept, or receive any certificate of arrival, declaration of intention, certificate of naturalization, or certificate of citizenship, or other documentary evidence of naturalization or of citizenship—

a. Knowing the same to have been procured by fraud; or

b. Knowing the same to have been procured by the use or means of any false name or false statement given or made with the intent to procure the issuance of such certificate of arrival, declaration of intention, certificate of naturalization, or certificate of citizenship, or other documentary evidence of naturalization or of citizenship; or

c. Knowing the same to have been fraudulently altered in any manner.

(6) Knowingly, in any naturalization or citizenship proceeding, whether as the applicant, declarant, petitioner, witness, or otherwise in such proceeding—

a. To personate another person;

b. To appear falsely in the name of a deceased person, or in an assumed or fictitious name.

(7) Knowingly, contrary to the provisions of this chapter—

a. To issue a certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship, or any other documentary evidence of naturalization or of citizenship; or

b. To assist in or be a party to the issuance of a certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship, or any other documentary evidence of naturalization or of citizenship.

(8) Knowingly to possess without lawful authority or lawful excuse, and with intent unlawfully to use the same, any false, forged, antedated, or counterfeited certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship, or any other documentary evidence of naturalization or of citizenship, purporting to have been issued under any law of the United States relating to naturalization or citizenship, knowing such certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship, or any other documentary evidence of naturalization or of citizenship to be false, forged, antedated, or counterfeited.

(9) Falsely to make, forge, or counterfeit any oath, notice, affidavit, certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship, or any other documentary evidence of naturalization or of citizenship, or any order, record, signature, or other instrument, paper, or proceeding, required or authorized by any law relating to naturalization or citizenship.

(10) To cause or procure to be falsely made, forged, or counterfeited, any oath, notice, affidavit, certificate, certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship, or any other documentary evidence

of naturalization or of citizenship, or any order, record, signature, or other instrument, paper, or proceeding, required or authorized by any law relating to naturalization or citizenship.

(11) To aid or assist in falsely making, forging, or counterfeiting, any oath, notice, affidavit, certificate, certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship, or any other documentary evidence of naturalization or of citizenship, or any order, record, signature, or other instrument, paper, or proceeding, required or authorized by any law relating to naturalization or citizenship.

(12) To utter, sell, dispose of, or use as true or genuine, for any unlawful purpose, any false, forged, antedated, or counterfeited oath, notice, affidavit, certificate, certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship, or any other documentary evidence of naturalization or of citizenship, or any order, record, signature, or other instrument, paper, or proceeding, required or authorized by any law relating to naturalization or citizenship.

(13) To sell, or dispose of unlawfully, a declaration of intention, certificate of naturalization, certificate of citizenship, or any other documentary evidence of naturalization or of citizenship

(14) Knowingly to use in any manner for the purpose of registering as a voter, or as evidence of a right to vote, or otherwise unlawfully, any order, certificate, certificate of naturalization, certificate of citizenship, judgment, decree, or exemplification, showing any person to be naturalized or admitted to be a citizen, whether heretofore or hereafter issued or made, which has been unlawfully issued or made.

(15) Knowingly and unlawfully to use, or attempt to use, any order, certificate, certificate of naturalization, certificate of citizenship, judgment, decree, or exemplification, showing any person to be naturalized or admitted to be a citizen, whether heretofore or hereafter issued or made, which has been issued to or in the name of any other person or in a fictitious name, or in the name of a deceased person.

(16) To use or attempt to use any certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship, or other documentary evidence of naturalization or of citizenship heretofore or which may hereafter be issued or granted, knowing the same to be forged, counterfeited, or antedated, or to have been procured by fraud or by false evidence, or without appearance or hearing of the applicant in court where such appearance and hearing are required, or otherwise unlawfully obtained.

(17) To aid, assist, or participate in the use of any certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship, or other documentary evidence of naturalization or of citizenship heretofore or which may hereafter be issued or granted, knowing the same to be forged, counterfeited, or antedated, or to have been procured by fraud or by false evidence, or without appearance or hearing of the applicant in court where such appearance and hearing are required, or otherwise unlawfully obtained.

(18) Knowingly to falsely represent himself to be a citizen of the United States without having been naturalized or admitted to citizenship, or

without otherwise being a citizen of the United States.

(19) Knowingly, with the intent to avoid any duty or liability imposed or required by law, to deny that he has been naturalized or admitted to be a citizen, after having been so naturalized or admitted.

(20) To engrave, without lawful authority, any plate in the likeness of any plate designed for the printing of a declaration of intention, or certificate of naturalization, or certificate of citizenship, or any other documentary evidence of naturalization or of citizenship.

(21) To cause or procure to be engraved, without lawful authority, any plate in the likeness of any plate designed for the printing of a declaration of intention, or certificate of naturalization, or certificate of citizenship, or any other documentary evidence of naturalization or of citizenship.

(22) To assist in engraving, without lawful authority, any plate in the likeness of any plate designed for the printing of a declaration of intention, or certificate of naturalization, or certificate of citizenship, or any other documentary evidence of naturalization or of citizenship.

(23) To sell any plate in the likeness of any plate designed for the printing of a declaration of intention, or certificate of naturalization, or certificate of citizenship, or any other documentary evidence of naturalization or of citizenship, except by direction of the Commissioner or other proper officer of the United States.

(24) To bring into the United States from any foreign place any plate in the likeness of any plate designed for the printing of a declaration of intention, certificate of naturalization, or certificate of citizenship, or any other documentary evidence of naturalization or of citizenship, except by direction of the Commissioner or other proper officer of the United States.

(25) To have in the control, custody, or possession of any such alien or other person, any metallic plate engraved after the similitude of any plate from which any declaration of intention, or certificate of naturalization, or certificate of citizenship, or any other documentary evidence of naturalization or of citizenship, has been or is to be printed, with intent to use or to suffer such plate to be used in forging or counterfeiting any such declaration of intention, or certificate of naturalization, or certificate of citizenship, or other documentary evidence or any part thereof.

(26) To bring into the United States from any foreign place, except by direction of the Commissioner or other proper officer of the United States, any declaration of intention, or certificate of naturalization, or certificate of citizenship, or any other documentary evidence of naturalization or of citizenship, printed from any metallic plate engraved after the similitude of any plate from which any declaration of intention, certificate of naturalization, or certificate of citizenship, or any other documentary evidence of naturalization or of citizenship has been or is to be printed.

(27) To have in his possession, without lawful authority, any blank certificate of arrival, blank declaration of intention, or blank certificate of naturalization or of citizenship, provided by the Service, with the intent unlawfully to use the same.

(28) To have in his possession a distinctive pa-

per which has been adopted by the proper officer or agency of the United States for the printing or engraving of any declaration of intention, or certificate of naturalization or of citizenship, with intent unlawfully to use the same.

(29) To print, photograph, make, or execute, or in any manner cause to be printed, photographed, made, or executed, without lawful authority, any print or impression in the likeness of any certificate of arrival, declaration of intention, or certificate of naturalization or of citizenship, or any part thereof.

(30) Knowingly to procure or attempt to procure an alien or other person to violate any of the provisions of this chapter.

(31) Failing, after at least sixty days' notice, by the appropriate court or the Commissioner or a Deputy Commissioner, to surrender a certificate of naturalization or citizenship which has been canceled, in accordance with the provisions of this chapter, such person having such certificate in his possession or under his control.

(32) Knowingly to certify that an applicant, declarant, petitioner, affiant, witness, deponent, or other person named in an application, declaration, petition, affidavit, deposition, or certificate of naturalization, or certificate of citizenship, or other paper or writing required or authorized to be executed or used under the provisions of this chapter, personally appeared before the person making such certification and was sworn thereto or acknowledged the execution thereof, or signed the same, when in fact such applicant, declarant, petitioner, affiant, witness, deponent, or other person, did not personally appear before the person making such certification, or was not sworn thereto, or did not execute the same, or did not acknowledge for the execution thereof.

(33) Knowingly to demand, charge, solicit, collect, or receive, or agree to charge, solicit, collect, or receive any other or additional fees or moneys in naturalization or citizenship or other proceedings under this chapter than the fees and moneys specified in such chapter.

(34) Willfully to neglect to render true accounts of moneys received by any clerk of a naturalization court or such clerk's assistant or any other person under this chapter or willfully to neglect to pay over any balance of such moneys due to the United States within thirty days after said payment shall become due and demand therefor has been made and refused, which neglect shall constitute embezzlement of the public moneys.

(b) Application of section to copies and duplicates of documents.—The provisions of this section shall apply to copies and duplicates of certificates of arrival, of declarations of intention, of certificates of naturalization, of certificates of citizenship, and of other documents required or authorized by the naturalization laws of citizenship laws as well as to the originals of such certificates of arrival, declarations of intention, certificates of naturalization, certificates of citizenship, and other documents, whether issued by any court or by the Commissioner or a Deputy Commissioner.

(c) Application of section to courts having jurisdiction of naturalization proceedings.—The provisions of this section shall apply to all proceedings had or taken or attempted to be had or taken, before any court specified in subsection (a) of

section 701, or any court, in which proceedings for naturalization may have been or may be commenced or attempted to be commenced, and whether or not such court at the time such proceedings were had or taken was vested by law with jurisdiction in naturalization proceedings.

(d) Penalties for violating subsection (a).—Any person violating any provision of subsection (a) of this section shall be fined not more than \$5,000, or imprisoned not more than five years, or both.

(e) Penalties for failure to respect subpoena for final hearing.—Any person who has been subpoenaed under the provisions of subsection (d) of section 709 to appear on the final hearing of a petition for naturalization, and who shall neglect or refuse to so appear and to testify, if in the power of such person to do so, shall be subject to the penalties prescribed by subsection (d) of this section.

(f) Violation of franking privilege; penalty.—If any person shall use the endorsement "Official Business" authorized by section 743 to avoid payment of postage or registry fee on a private letter, package, or other matter in the mail, such person shall be guilty of a misdemeanor and subject to a fine of \$300, to be prosecuted in any court of competent jurisdiction.

(g) Statute of limitations.—No person shall be prosecuted, tried, or punished for any crime arising under the provisions of this chapter unless the indictment is found or the information is filed within five years next after the commission of such crime.

(h) Law governing prosecution of crimes committed before effective date of chapter.—For the purpose of the prosecution of all crimes and offenses against the naturalization or citizenship laws of the United States which may have been committed prior to the date when this chapter shall go into effect, the existing naturalization and citizenship laws shall remain in full force and effect.

(i) Evidence of government employees as to false oaths, etc.—It shall be lawful and admissible as evidence in any proceedings founded under this chapter, or any of the penal or criminal provisions of the immigration, naturalization or citizenship laws, for any officer or employee of the United States to render testimony as to any statement voluntarily made to such officer or employee in the course of the performance of the official duties of such officer or employee by any defendant at the time of or subsequent to the alleged commission of any crime or offense referred to in this section which may tend to show that such defendant did not or could not have had knowledge of any matter concerning which such defendant is shown to have made affidavit, or oath, or to have been a witness pursuant to such law or laws.

(j) Clerks of courts; failure to comply with law generally.—In case any clerk of court shall refuse or neglect to comply with any of the provisions of section 737 (a), (b), (c), or (d), such clerk of court shall forfeit and pay to the United States the sum of \$25 in each and every case in which such violation or omission occurs, and the amount of such forfeiture may be recovered by the United States in an action of debt against such clerk.

(k) Clerks of courts; failure to account for cer-

tificates of naturalization.—If any clerk of court shall fail to return to the Service or properly account for any certificate of naturalization furnished by the Service as provided in subsection (e) of section 737, such clerk of court shall be liable to the United States in the sum of \$50, to be recovered in an action of debt, for each and every such certificate not properly accounted for or returned.

(l) Application of section to registry of aliens.—The provisions of subsections (a), (b), (d), (g), (h), and (i) of this section shall apply in respect of the application for and the record of registry authorized by section 728, in the same manner and to the same extent, including penalties, as they apply in any naturalization or citizenship proceeding or any other proceeding under section 746. Oct. 14, 1940, c. 876, Title I, §346, 54 Stat. 1163.

§ 747. **Saving clauses.**—(a) Nothing contained in either subchapter III [§§701 to 747 of this chapter] or in subchapter V [§§901 to 907 of this chapter] of this chapter, unless otherwise provided therein, shall be construed to affect the validity of any declaration of intention, petition for naturalization, certificate of naturalization or of citizenship, or other document or proceeding which shall be valid at the time this chapter shall take effect; or to affect any prosecution, suit, action, or proceedings, civil or criminal, brought, or any act, thing, or matter, civil or criminal, done or existing, at the time this chapter shall take effect; but as to all such prosecutions, suits, actions, proceedings, acts, things, or matters, the statutes or parts of statutes repealed by this chapter, are hereby continued in force and effect.

(b) Any petition for naturalization heretofore filed which may be pending at the time this chapter shall take effect shall be heard and determined within two years thereafter in accordance with the requirements of law in effect when such petition was filed. Oct. 14, 1940, c. 876, Title I, §347, 54 Stat. 1168.

Subchapter VI. Naturalization of Persons Serving in the Armed Forces of the United States during the Present War.

Sec.

1001. Exception from certain requirements.

1002. Alien serving outside jurisdiction of naturalization court.

1003. Waiver of notice to Commissioner in case of alien enemy.

1004. Persons excepted from subchapter; revocation of citizenship upon dishonorable discharge.

1005. Forms, rules, and regulations.

§ 1001. **Exception from certain requirements.**—Notwithstanding the provisions of sections 703 and 726 of this title, any person not a citizen, regardless of age, who has served or hereafter serves honorably in the military or naval forces of the United States during the present war and who, having been lawfully admitted to the United States, including its Territories and possessions, shall have been at the time of his enlistment or induction a resident thereof, may be naturalized upon compliance with all the requirements of the naturalization laws except that (1) no declaration of intention and no period of residence within

the United States or any State shall be required; (2) the petition for naturalization may be filed in any court having naturalization jurisdiction regardless of the residence of the petitioner; (3) the petitioner shall not be required to speak the English language, sign his petition in his own handwriting, or meet any educational test; and (4) no fee shall be charged or collected for making, filing, or docketing the petition for naturalization, or for the final hearing thereon, or for the certification of naturalization, if issued: Provided, however, That (1) there shall be included in the petition the affidavits of at least two credible witnesses, citizens of the United States, stating that each such witness personally knows the petitioner to be a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States, (2) the service of the petitioner in the military or naval forces of the United States shall be proved by affidavits, forming part of the petition, of at least two citizens of the United States, members or former members during the present war of the military or naval forces of the noncommissioned or warrant officer grade or higher (who may be the witnesses described in clause (1) of this proviso), or by a duly authenticated copy of the record of the executive department having custody of the record of petitioner's service, showing that the petitioner is or was during the present war a member serving honorably in such armed forces, and (3) the petition shall be filed not later than one year after the termination of the effective period specified in section 645 of the Appendix to Title 50. The petitioner may be naturalized immediately if prior to the filing of the petition the petitioner and the witnesses required by the foregoing proviso shall have appeared before and been examined by a representative of the Immigration and Naturalization Service. Oct. 14, 1940, c. 876, Title III, § 701, as added Mar. 27, 1942, 3 p. m., E. W. T., c. 199, Title X, § 1001, 56 Stat. 182.

§ 1002. **Alien serving outside jurisdiction of naturalization court.**—During the present war, any person entitled to naturalization under section 1001 of this title, who while serving honorably in the military or naval forces of the United States is not within the jurisdiction of any court authorized to naturalize aliens, may be naturalized in accordance with all the applicable provisions of section 1001 without appearing before a naturalization court. The petition for naturalization of any petitioner under this section shall be made and sworn to before, and filed with, a representative of the Immigration and Naturalization Service designated by the Commissioner or a Deputy Commissioner, which designated representative is hereby authorized to receive such petition in behalf of the Service, to conduct hearings thereon, to take testimony concerning any matter touching or in any way affecting the admissibility of any such petitioner for naturalization, to call witnesses, to administer oaths, including the oath of the petitioner and his witnesses to the petition for naturalization and the oath of renunciation and allegiance prescribed by section 735 of this title, and to grant naturalization, and to issue certificates of citizenship: Provided, That the record of any

proceedings hereunder together with a copy of the certificate of citizenship shall be forwarded to and filed by the clerk of a naturalization court in the district in which the petitioner is a resident and be made a part of the record of the court. Oct. 14, 1940, c. 876, Title III, § 702, as added Mar. 27, 1942, 3 p. m. E. W. T., c. 199, Title X, § 1001, 56 Stat. 182.

§ 1003. Waiver of notice to Commissioner in case of alien enemy.—The ninety days' notice required by subsection (b) of section 726 of this title to be given by the clerk of the naturalization court to the Commissioner may be waived by the Commissioner in his discretion. In any petition in which such notice is waived the Commissioner shall cause the clerk of court to be notified to that effect. Oct. 14, 1940, c. 876, Title III, § 703, as added Mar. 27, 1942, 3 p. m., E. W. T., c. 199, Title X, § 1001, 56 Stat. 183.

§ 1004. Persons excepted from subchapter; revocation of citizenship upon dishonorable discharge.—The provisions of this subchapter shall

not apply to (1) any person who during the present war is dishonorably discharged from the military or naval forces or is discharged therefrom on account of his alienage, or (2) any conscientious objector who performed no military duty whatever or refused to wear the uniform: Provided, That citizenship granted pursuant to this subchapter may be revoked as to any person subsequently dishonorably discharged from the military or naval forces in accordance with Section 738 of this title; and such ground for revocation shall be in addition to any other provided by law. Oct. 14, 1940, c. 876, Title III, § 704, as added Mar. 27, 1942, 3 p. m., E. W. T., c. 199, Title X, § 1001, 56 Stat. 183.

§ 1005. Forms, rules, and regulations.—The Commissioner, with the approval of the Attorney General, shall prescribe and furnish such forms, and shall make such rules and regulations, as may be necessary to carry into effect the provisions of this subchapter. Oct. 14, 1940, c. 876, Title III, § 705, as added Mar. 27, 1942, 3 p. m. E. W. T., c. 199, Title X, § 1001, 56 Stat. 183.

VI. Rules, Regulations, Organization, and Canons of Ethics of the North Carolina State Bar

ARTICLE I.

Functions.

§ 1. **Purpose.**—The North Carolina State Bar shall foster the following purposes, namely:

To cultivate and advance the science of jurisprudence;

To promote reform in the law and in judicial procedure;

To facilitate the administration of justice;

To uphold and elevate the standards of honor, of integrity and of courtesy in the legal profession;

To encourage higher and better education for membership in the profession;

To promote a spirit of cordiality and brotherhood among the members of the Bar; and

To perform all duties imposed by law.

§ 2. **Division of Work.**—To facilitate the work for the accomplishment of the above enumerated purposes, the Council may, from time to time, classify such work under appropriate sections and committees of The North Carolina State Bar.

§ 3. **Coöperation With Local Bar Association Committees.**—The sections and committees so appointed may secure the coöperation of like sections and committees of The North Carolina Bar Association and all local Bar Associations of the State.

§ 4. **Organization of Local Bar Associations.**—The Council shall encourage and foster the organization of local Bar Associations.

§ 5. **Annual Program.**—The Council shall provide a suitable program for each annual meeting of The North Carolina State Bar.

§ 6. **Reports Made to Annual Meeting.**—The reports of the several sections and committees, with their recommendations, shall be delivered to the Secretary of The North Carolina State Bar at least thirty days before the annual meeting. Such reports, together with any reports from special committees that the Council desires to present to the annual meeting, may be printed and sent to each member of The North Carolina State Bar at least twenty days before such meeting. Nothing herein shall preclude any section, committee or the Council from presenting a report or recommendation that has not been so printed and mailed.

ARTICLE II.

Membership—Annual Membership Fees.

§ 1. **Register of Members.**—The Secretary-Treasurer shall keep a register for the enrollment of members of The North Carolina State Bar. In appropriate places therein entries shall be made showing the address of each member, date of registration and class of membership, date of transfer from one class to another, if any,

date and period of suspension, if any, and such other useful data which the Council may from time to time require.

Every member shall register by signing a registration card, which in substance shall require, until the future order of the Council, the member to furnish the following information:

1. Name and address.

2. Date.

3. Date passed examination to practice in North Carolina.

4. Date and place sworn in as an attorney.

5. Date and place of birth. If not born in the United States, when and where naturalized.

6. Whether admitted to United States District Court, United States Circuit Court of Appeals, or United States Supreme Court.

7. Membership, if any, in bar associations, giving name of each.

8. Whether suspended or disbarred, and if so, when and where, and when readmitted.

§ 2. **Annual Membership Fees, When Due.**—The annual membership fee for an active member shall be \$5.00.

Said membership fee shall be paid to the Secretary-Treasurer for the year 1933 on or before the 1st day of January, 1934, and for the year 1934, on or before the 1st day of July, 1934, and on or before the 1st day of July, of each year thereafter.

No part of said membership fees shall be apportioned to fractional parts of the year, and no part of the membership fees shall be rebated by reason of death, resignation, suspension or disbarment.

Written notice of failure to pay annual membership fees shall be sent to a member at his last known business address by the Secretary of the State Bar. Upon payment of delinquent fees by any member, his name shall be certified to the clerk of the Superior Court of the county of his residence.

§ 3. All members who claim to be inactive shall file a duly verified petition with the Secretary addressed to the Council setting forth fully:

1. Date of admission to the Bar and place of residence from which admitted.

2. The practice, times and places.

3. Present occupation or work engaged in and residence.

4. Grounds upon which applicant desires classification.

5. That applicant is at the time of filing petition a member in good standing having paid all fees required and without any charges undisposed of against him.

6. Any further matters pertinent to the petition.

§ 4. The Council may in its discretion order the petitioner to be placed on the inactive list of membership on the records of the Secretary and may in its discretion revoke such order at any time.

ARTICLE III.

§ 1. **Election of Officers.**—The officers of The North Carolina State Bar, in addition to the Councillors, shall consist of a President, a first Vice-President, a second Vice-President, and Secretary-Treasurer. The Secretary-Treasurer shall receive a salary fixed by the Council; other officers shall serve without compensation, except per diem allowance fixed by the statute.

The first President and Vice-President shall be elected by the Councillors from the active members of The North Carolina State Bar.

At each annual meeting of The North Carolina State Bar the active members present shall elect a President and two Vice-Presidents who shall hold office until their successors are elected and qualified. The Secretary-Treasurer shall be elected by the Council annually. No officer elected by the Council or by The North Carolina State Bar need be a member of the Council. All such officers shall be the officers of the Council with the same titles.

ARTICLE IV.

Duties of Officers.

§ 1. **Absence or Inability of President.**—In the absence or inability of the President at any meeting of The North Carolina State Bar or the Council, one of the Vice-Presidents shall act in his place. In the event neither is present, the Council shall select one of its members to preside during such meeting.

In all other matters, if the President absents himself from the State, or for any reason is unable to perform his duties as president, the first Vice-President shall perform the duties of President and likewise in his absence the second Vice-President shall act. In the event of the inability of either to perform the duties of President, the Council may select one of their members to act until such absence or inability is removed.

§ 2. **Duties of Secretary-Treasurer.**—The Secretary-Treasurer shall attend all meetings of the Council and of The North Carolina State Bar, and shall record the proceedings of all such meetings. He shall, with the President or one of the Vice-Presidents, execute all contracts ordered by the Council. He shall have custody of the seal of The North Carolina State Bar, and shall affix it to all documents executed on behalf of the Council or certified as emanating from the Council. He shall take charge of all funds paid into The North Carolina State Bar and deposit them in some bank selected by the Council; he shall cause books of accounts to be kept, which shall be the property of The North Carolina State Bar and which shall be open to the inspection of any officer, committee or member of The North Carolina State Bar during usual business hours. At each January meeting of the Council, the Secretary-Treasurer shall make a full report of receipts and disbursements since the previous annual report, together with a list of all outstanding obligations of The North Carolina State Bar. The books of accounts shall be audited as of December 31st of each year and the Secretary shall publish same in the annual reports as referred to above. He shall perform such other

duties as may be imposed upon him, and shall give bond for the faithful performance of his duties in an amount to be fixed by the Council with surety to be approved by the Council.

ARTICLE V.

Meetings of The North Carolina State Bar.

§ 1. **Annual Meetings.**—The annual meetings of The North Carolina State Bar, beginning with the year 1937, shall be held in the city of Raleigh, on the fourth Friday in October.

§ 2. **Special Meetings.**—Special meetings of The North Carolina State Bar may be called upon thirty days' notice, as follows:

(a) By the Secretary, upon direction of the Council.

(b) By the Secretary, upon the call addressed to the Council, of not less than twenty-five per cent of the active members of The North Carolina State Bar.

At special meetings no subjects shall be dealt with other than those specified in the notice.

§ 3. **Notice of Meetings.**—Notice of all meetings shall be given by publication in such newspapers of general circulation as the Council may select, or, in the discretion of the Council, by mailing notice to the Secretary of the several district bars or to the individual active members of The North Carolina State Bar.

§ 4. **Quorum.**—At all annual and special meetings of The North Carolina State Bar, ten per cent of the active members of The North Carolina State Bar shall constitute a quorum, but there shall be no voting by proxy.

§ 5. **Parliamentary Rules.**—Proceedings at any meeting of The North Carolina State Bar shall be governed by "Roberts' Rules of Order."

ARTICLE VI.

Meetings of the Council.

§ 1. **Regular Meetings.**—Regular meetings of the Council shall be held on the first Friday after the second Monday in each of the months of January, April and July in the city of Raleigh; and on the day before the annual meeting of The North Carolina State Bar, in the place of such meeting. The hour of meeting shall in each case be at 10 o'clock a. m. Any regular meeting may be adjourned from time to time as a majority of members present may determine.

§ 2. **Special Meetings.**—The President in his discretion may call special meetings of the Council. Upon written request of eight Councillors, filed with the Secretary-Treasurer requesting the President to call a special meeting of the Council, the Secretary shall, within five days thereafter, call such special meeting. The date fixed for such meeting shall not be less than five days nor more than ten days from the date of such call.

§ 3. **Notice of Called Special Meetings.**—Notice of called special meetings shall be signed by the Secretary. The notice shall set forth the day and hour of the meeting and the place for holding the same. Any business may be presented for consideration at such special meeting. Such notice

must be given to each Councillor unless waived by him. A written waiver signed by any Councillor shall be equivalent to notice as herein provided. Notice to Councillors not waiving as aforesaid shall be in writing and may be communicated by telegraph, or by letter through the United States mail in the usual course, addressed to each of said Councillors at his law office address. Notice by telegraph shall be filed with the telegraph carrier for transmission at least three days, and notice by mail shall be deposited in the United States post office at least five days, before the day fixed for the special meeting.

§ 4. Quorum at Meeting of Council.—At meetings of the Council the presence of ten Councillors shall constitute a quorum.

§ 5. Standing Committees of the Council.—The standing committees of the Council shall consist of:

a. An Executive Committee of five Councillors, elected by the Council, and the President and Secretary-Treasurer.

It shall be the duty of the Executive Committee to perform such duties as the Council shall designate, including, however, the auditing of the books and records of the Secretary-Treasurer at each regular meeting of the Council.

b. Committee on Legal Ethics and Professional Conduct of five Councillors elected by the Council.

It shall be the duty of the Committee on Legal Ethics and Professional Conduct to study canons of ethics and professional conduct and make such recommendations from time to time to the Council as it may deem proper and necessary; study and determine such questions as may arise as to the meaning and application of the canons of ethics and rules of professional conduct, and advise members of the State Bar upon request in respect thereto, and perform such other duties in connection with the canons of ethics and rules of professional conduct as it may be requested to perform by the Council of The North Carolina State Bar.

c. Committee on Grievances of five Councillors elected by the Council.

It shall be the duty of the Committee on Grievances to investigate and study all complaints which may be made against members of the State Bar. The committee may include in its investigations all matters which may come to its attention with reference to the member complained of. Its recommendation to the Council shall be in writing, and, if the action recommended be other than dismissal of the complaint, it shall state the facts and circumstances which have come to its attention in connection with the complaint, and shall state that a ten days' written notice by registered mail to his last known address has been given to the attorney, permitting him to be heard on affidavit, except in those cases where he has been convicted or confessed his guilt in open court, or the charges have been duly proven in a civil action. If the recommendation of the Grievance Committee is for dismissal of the charges, the report shall be private. It shall not be necessary to examine witnesses, but the committee shall have authority to require affidavits or other state-

ments in sufficient form and substance to satisfy it as to the probable truth of the charges contained in the complaint.

d. Committee on Legislation and Law Reform of five Councillors elected by the Council.

It shall be the duty of the Committee on Legislation and Law Reform to examine proposed changes in the law; to examine and propose changes in the law and judicial procedure; to promote the simplification of law and procedure; and perform such other duties in connection with the improvement of law and procedure as may from time to time be requested by the Council or The North Carolina State Bar.

The Committee on Legislation and Law Reform shall not appear before committees of the Legislature, except upon the approval of the Council, nor shall it make specific endorsements of changes in the laws or of new laws except with the consent of the Council.

e. Committee on Unauthorized Practice of not less than three Councillors elected by the Council.

f. Committee on Membership of not less than three Councillors elected by the Council.

ARTICLE VII.

Office of The North Carolina State Bar.

§ 1. Office.—Until otherwise ordered by the Council, the office of The North Carolina State Bar shall be maintained in the city of Raleigh at such place as may be designated by the Council.

ARTICLE VIII.

Board of Law Examiners.

§ 1. Election.—At the first meeting of the Council, it shall elect as members of the Board of Law Examiners, two members of the State Bar to serve for a term of one year from July 1, 1933; and two members of the State Bar to serve for a term of two years from July 1, 1933; and two members of the State Bar to serve for a term of three years from July 1, 1933.

The Council, at its regular meeting, in April of each year, beginning in 1934, shall elect two members of the Board of Law Examiners to take office on the 1st day of July of the year in which they are elected and such members shall serve for a term of three years, or until their successors are elected and qualified.

Beginning with the year 1935 and every third year thereafter the Council shall elect 3 members for a term of three years or until their successors are elected and qualified.

No member of the Council shall be a member of the Board of Law Examiners, and no member of the Board of Law Examiners shall be a member of the Council.

§ 2. Examination of Applicants for License.—All applicants for admission to the Bar shall first obtain a certificate or license from the Board of Law Examiners in accordance with the rules and regulations of that Board.

§ 3. Admission to Practice.—Upon receiving license to practice law from the Board of Law Examiners, the applicant shall be admitted to the practice thereof by taking the oath in the manner and form now provided by law.

§ 4. **Approval of Rules and Regulations of Board of Law Examiners.**—The Council shall, as soon as possible, after the presentation to it of rules and regulations for admission to the Bar, approve or disapprove such rules and regulations. The rules and regulations approved shall immediately be certified to the Supreme Court. Such rules and regulations as may not be approved by the Council shall be the subject of further study and action, and for the purpose of study, the Council and Board of Law Examiners may sit in joint session. No action, however, shall be taken by the joint meeting, but each shall act separately, and no rule or regulation shall be certified to the Supreme Court until approved by the Council.

ARTICLE IX.

Discipline and Disbarment of Attorneys.

§ 1. Upon the receipt of the report of the Grievance Committee, and its recommendations the Council will determine at a regular meeting, its course in reference to the matters recommended by the Grievance Committee and shall adopt, modify, reject, or remand the said report to the Grievance Committee for further investigation, but no judgment shall be entered against any accused attorney except after a hearing has been had thereon, as provided in Art. 4, Chapter 84, of the General Statutes, and herein.

§ 2. In case the Council decides to direct a hearing upon the matters, or any of them, so reported by the Grievance Committee, the following procedure shall be followed:

(a) A verified written statement, in separate paragraphs, shall be formulated by the Council, or under its directions, showing the nature and substance of all the charges preferred against the party against whom the same have been filed, or lodged, or included in the report of the Committee on Grievances. Such statement shall also contain a notice of the time and place for a hearing thereon, in the county where the respondent resides, and the respondent shall be entitled to receive two copies of said statement and notice, at least thirty days prior to the time designated for such hearing. Service of said statement and notice shall be made by the sheriff of the county in which said respondent resides, by delivering to the said respondent two copies of said statement and notice, and the Secretary of the Council shall pay to such sheriff for such service such fees as are allowed such sheriff for service of summons in civil actions.

(b) The Council shall name and designate a committee of three Councillors who shall sit at such hearing and preside over the proceedings had thereat, and remove the hearing as provided in Art. 4, Chapter 84, of the General Statutes.

(c) The respondent, within said period of thirty days, may file answer to the charges set out in the said statement and notice, which shall be accompanied by two copies thereof, and the said answer and copies thereof shall, within said period, be filed in the office of the Secretary of the Council. Every material allegation of the verified statement not controverted by an answer or to which no answer is made is, for the purpose of the action, taken as true and the trial committee may consider the facts therein contained as

conceded and no other proof of the same shall be necessary.

(d) At such hearing, and throughout the pendency of such charges, the respondent shall be entitled to counsel; to have process to secure and compel the attendance of witnesses, the production of papers and books, documents and, upon request, the same shall be issued as prescribed in Art. 4, Chapter 84, of the General Statutes. All process officers in the State of North Carolina shall be required to serve the same, and for such service shall receive fees allowed in their respective jurisdictions for the service of subpoenas issued by the Superior Courts.

(e) At said hearing, or hearings, a complete stenographic report of all testimony shall be had and the original and one copy of said testimony shall be filed with the Secretary of the Council.

(f) The cost of stenographic services for such trial shall be paid by the Council upon bills rendered and approved as other expenses of the Council, and shall be taxed as a part of the costs, as provided in Art. 4, Chapter 84, of the General Statutes.

(g) At said hearing, or hearings, before said Committee, respondent shall have the right to produce in his behalf all competent evidence and to testify in person in respect to the matters and things set out in said statement and notice.

(h) Counsel shall have the right to submit oral argument and written briefs under the direction of the said committee, and to present such arguments as may now be presented in the trial of civil actions in the Superior Court.

(i) After hearing all the evidence and considering the same, the said committee shall file its report, stating its findings of fact and making its conclusions thereon as to discipline or disbarment, or as to the innocence of the respondent. Said report in duplicate shall be filed with the Secretary of the Council and shall stand for hearing at the next regular meeting of the Council, but the Council shall have power to continue the hearing to specified dates.

(j) When the said committee shall formulate its report, a copy thereof shall be sent, by registered mail, to the respondent, and the said respondent shall file his exceptions thereto within ten days from the receipt of the copy of said report. If the respondent shall desire further time he may apply to the President of The North Carolina State Bar for an extension of time in which to file exceptions to said report. The President of The North Carolina State Bar is hereby authorized to grant such extension as will meet the ends of justice, having due regard to the right of the respondent to have a full and ample opportunity to present his defense and that it is to the interest of the public that such matters be speedily concluded. The respondent shall file his exceptions within the time herein provided or within the said extended time.

If the respondent shall fail to file any exceptions to said report, then the Council will proceed thereon ex parte.

(k) Said Council shall consider said report at a regular meeting and shall determine upon the record of the said hearing, which shall consist of the said statement and notice served on the

respondent, his answer, if any, the testimony taken by the said committee, its report, recommendations, and the briefs of counsel filed before said committee, if any, and when the same is considered by the Council, the said respondent shall be entitled to be heard by the Council in person or through counsel, before determination, but no testimony or evidence will be taken by the Council and none heard other than such as is contained in the record filed by the committee which conducted the hearings.

(l) Any evidence, discovered after the report of the committee hearing the matter has been filed with the Council, may be the subject of a motion before the Council at any time before final judgment to remand the said report to the committee, to the end that the said committee may hear said newly discovered evidence. Such motion, and the proof with respect thereto, shall be made and heard under the rules now applicable to motions for new trials in the Superior Court for newly discovered evidence in civil actions, and if the said report is remanded to said committee to hear said newly discovered evidence, then the same shall be heard by said committee, subject to its competency, and such other evidence as may be corroborative or contradictory thereof, may also be submitted, and the said committee shall include said newly discovered evidence in its report and shall make such further findings and recommendations as it may deem proper in the light of all the evidence. Notice of such motion shall be given to opposing counsel at least ten days before said motion is to be heard.

(m) Upon such record, after hearing the argument thereon, the Council shall render its judgment as authorized in Art. 4, Chapter 84, of the General Statutes, and amendments thereto, at a regular meeting, notice of which meeting shall be given the respondent, who shall have the right to be present in person or through counsel.

(n) From any judgment of suspension from the practice, or disbarment, the said respondent may appeal, as provided in Art. 4, Chapter 84, of the General Statutes, and notice of such appeal shall be sufficiently given the said Council, if given orally, when said judgment is rendered at a meeting of said Council, or by service of written notice of the same on the Secretary-Treasurer thereof, within fifteen days from the rendition of said judgment by said Council, which fifteen days shall begin to run from the final adjournment of the meeting of said Council at which said judgment was rendered. A copy of said judgment duly certified by the Secretary-Treasurer shall be forthwith mailed to the respondent by registered letter, with return receipt requested.

(o) The record on appeal to the Superior Court shall consist of the statement and notice and answer, if any, and the transcript of the evidence, and the findings of fact and recommendations of the committee, and the findings and conclusions of the Council thereon, as well as the exceptions, if any, filed to the report of said committee by the respondent, and the judgment of the Council thereon and the assignments of error therein, as contended for by the respondent.

(p) The Secretary-Treasurer shall certify the evidence in question-and-answer form as taken at

the hearing, to the Superior Court, on appeal, which appeal shall be sent to the Clerk of the Superior Court in the county of the residence of the respondent.

(q) Whenever charges shall have been preferred against any member of the Bar, and the Council shall have directed a hearing upon the charges, it shall also designate a member or members of the Bar to prosecute said charges in such hearings as may be held, including hearing upon appeals in the Superior and Supreme Courts. The Council may allow the counsel performing such services such compensation as it may deem proper.

(r) In the case of persons charged with an offense cognizable by the Council, or any committee thereof, a complete record of the proceedings and evidence taken before the Council or any committee thereof shall be made and preserved in the office of the Secretary-Treasurer and the Secretary-Treasurer shall see that such record is had and preserved according to the orders of the Council.

The Council may, upon sufficient cause shown, and with the consent of the person charged, cause the said record to be expunged and destroyed.

(s) Final judgment of suspension from the practice or disbarment by the Council shall be certified by the Secretary-Treasurer to the Superior Court of the county wherein the respondent resides, and also to the Supreme Court of North Carolina. If the judgment of the Council shall be that the respondent be privately reprimanded, the Council shall formulate the reprimand and shall appoint one of its members to read and deliver the same and shall name the time and place for delivery thereof. The Secretary shall spread upon his minutes as a final judgment of the Council, the order of private reprimand, the name of the member of the Council to deliver the same, and the time and place therefor.

(t) Whenever any attorney has been deprived of his license under the provisions of Art. 4, Chapter 84, of the General Statutes, the Council, in its discretion, may restore said license upon due notice being given and hearing had and satisfactory evidence produced of proper reformation of the licensee before restoration.

(u) Due notice of motion before said Council to restore such license shall, in so far as it relates to the Council, be had by serving a written notice upon the Secretary-Treasurer of the Council by delivery of two copies thereof at least forty days prior to the hearing on said motion. In lieu of service the said Secretary-Treasurer may, in his discretion, accept service of said notice. Notice by publication shall also be made by applicant in a newspaper published in the county in which applicant resides once a week for four successive weeks.

(v) All hearings to restore licenses shall be had by the Council which shall make its findings and declare its conclusions thereon and enter its judgment upon the same. If, as result of said hearing, the Council decides to restore said license, a copy of its judgment restoring the same shall be certified to the Superior Court of the county wherein the said licensee resides, and if he then resides in

a county other than the county where the judgment disbarring said licentiate has been recorded, then a copy shall be certified to the Superior Court in said county where said judgment of disbarment has been recorded, and a certified copy thereof shall be delivered to the Supreme Court, to the end that the same may be recorded in its minutes, and when so recorded the judgment of the Council restoring said license shall have full force and effect throughout the State.

(w) The cost of any proceedings for the restoration of license shall be paid by the person making application therefor.

§ 3. All hearings on any complaint before the committee appointed by the council to hear the same, shall be public, and if possible, shall be held in the courthouse.

ARTICLE X.

Canons of Ethics and Rules of Professional Conduct.

No code or set of rules can be framed which will particularize all the duties of the lawyer in the varying phases of litigation or in all the relations of professional life. The enumeration of particular duties should not be construed as a denial of the existence of others equally imperative, though not specifically mentioned.

1. The Duty of the Lawyer to the Courts

It is the duty of the lawyer to maintain towards the Courts a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance. Judges, not being wholly free to defend themselves, are peculiarly entitled to receive the support of the Bar against unjust criticism and clamor. Whenever there is proper ground for serious complaint of a judicial officer, it is the right and duty of the lawyer to submit his grievances to the proper authorities. In such cases, but not otherwise, such charges should be encouraged and the person making them should be protected.

2. The Selection of Judges

It is the duty of the Bar to endeavor to prevent political considerations from outweighing judicial fitness in the selections of Judges. It should protest earnestly and actively against the appointment or election of those who are unsuitable for the Bench; and it should strive to have elevated thereto only those willing to forego other employments, whether of a business, political or other character, which may embarrass their free and fair consideration of questions before them for decision. The aspiration of lawyers for judicial position should be governed by an impartial estimate of their ability to add honor to the office and not by a desire for the distinction the position may bring to themselves.

3. Attempts to Exert Personal Influence on the Court

Marked attention and unusual hospitality on the part of a lawyer to a Judge, uncalled for by the personal relations of the parties, subject both the Judge and the lawyer to misconstructions of motive and should be avoided. A lawyer should

not communicate or argue privately with the Judge as to the merits of a pending cause, and he deserves rebuke and denunciation for any device or attempt to gain from a Judge special personal consideration or favor. A self-respecting independence in the discharge of professional duty, without denial or diminution of the courtesy and respect due the Judge's station, is the only proper foundation for cordial, personal and official relations between Bench and Bar.

4. When Counsel for an Indigent Prisoner

A lawyer assigned as counsel for an indigent prisoner ought not to ask to be excused for any trivial reason, and should always exert his best efforts in his behalf.

5. The Defense or Prosecution of Those Accused of Crime

It is the right of the lawyer to undertake the defense of a person accused of crime, regardless of his personal opinion as to the guilt of the accused; otherwise innocent persons, victims only of suspicious circumstances, might be denied proper defense. Having undertaken such defense, the lawyer is bound, by all fair and honorable means, to present every defense that the law of the land permits, to the end that no person may be deprived of life or liberty, but by due process of law.

The primary duty of a lawyer engaged in public prosecution is not to convict, but to see that justice is done. The suppression of facts or the secreting of witnesses capable of establishing the innocence of the accused is highly reprehensible.

6. Adverse Influences and Conflicting Interests

It is the duty of a lawyer at the time of retainer to disclose to the client all the circumstances of his relations to the parties, and any interest in or connection with the controversy, which might influence the client in the selection of counsel.

It is unprofessional to represent conflicting interests, except by express consent of all concerned given after a full disclosure of the facts. Within the meaning of this canon, a lawyer represents conflicting interests when, in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose.

The obligation to represent the client with undivided fidelity and not to divulge his secrets or confidences forbids also the subsequent acceptance of retainers or employment from others in matters adversely affecting any interest of the client with respect to which confidence has been reposed.

7. Professional Colleagues and Conflicts of Opinion

A client's proffer of assistance of additional counsel should not be regarded as evidence of want of confidence, but the matter should be left to the determination of the client. A lawyer should decline association as colleague if it is objectionable to the original counsel, but if the lawyer first retained is relieved, another may come into the case.

When lawyers jointly associated in a cause cannot agree as to any matter vital to the interest of

the client, the conflict of opinion should be frankly stated to him for his final determination. His decision should be accepted unless the nature of the difference makes it impracticable for the lawyer whose judgment has been overruled to co-operate effectively. In this event it is his duty to ask the client to relieve him.

Efforts, direct or indirect, in any way to encroach upon the employment of another lawyer, are unworthy of those who should be brethren at the Bar; but, nevertheless, it is the right of any lawyer, without fear or favor, to give proper advice to those seeking relief against unfaithful or neglectful counsel, generally after communication with the lawyer of whom the complaint is made.

8. Advising Upon the Merits of a Client's Cause

A lawyer should endeavor to obtain full knowledge of his client's cause before advising thereon, and he is bound to give a candid opinion of the merits and probable result of pending or contemplated litigation. The miscarriages to which justice is subject, by reason of surprises and disappointments in evidence and witnesses, and through mistakes of juries and errors of Courts, even though only occasional, admonish lawyers to beware of bold and confident assurances to clients, especially where the employment may depend upon such assurance. Whenever the controversy will admit of fair adjustment, the client should be advised to avoid or to end the litigation.

9. Negotiations with Opposite Party

A lawyer should not in any way communicate upon the subject of controversy with a party represented by counsel; much less should he undertake to negotiate or compromise the matter with him, but should deal only with his counsel. It is incumbent upon the lawyer most particularly to avoid everything that may tend to mislead a party not represented by counsel, and he should not undertake to advise him as to the law.

10. Acquiring Interest in Litigation

The lawyer should not purchase any interest in the subject matter of the litigation which he is conducting.

11. Dealing With Trust Property

The lawyer should refrain from any action whereby for his personal benefit or gain he abuses or takes advantage of the confidence reposed in him by his client.

Money of the client or collected for the client or other trust property coming into the possession of the lawyer should be reported and accounted for promptly, and should not under any circumstances be commingled with his own or be used by him.

12. Fixing the Amount of the Fee

In fixing fees, lawyers should avoid charges which overestimate their advice and services, as well as those which undervalue them. A client's ability to pay cannot justify a charge in excess of the value of the service, though his poverty may require a less charge, or even none at all. The reasonable requests of brother lawyers, and of their widows and orphans without ample means, should receive special and kindly consideration.

In determining the amount of the fee, it is proper to consider: (1) the time and labor required, the novelty and difficulty of the questions involved and the skill requisite properly to conduct the cause; (2) whether the acceptance of employment in the particular case will preclude the lawyer's appearance for others in cases likely to arise out of the transaction, and in which there is a reasonable expectation that otherwise he would be employed, or will involve the loss of other employment while employed in the particular case or antagonisms with other clients; (3) the customary charges of the Bar for similar services; (4) the amount involved in the controversy and the benefits resulting to the client from the services; (5) the contingency or the certainty of the compensation; and (6) the character of the employment, whether casual or for an established and constant client. No one of these considerations in itself is controlling. They are mere guides in ascertaining the real value of the service.

In determining the customary charges of the Bar for similar services, it is proper for a lawyer to consider a schedule of minimum fees adopted by a Bar Association, but no lawyer should permit himself to be controlled thereby or to follow it as his sole guide in determining the amount of his fee.

In fixing fees it should never be forgotten that the profession is a branch of the administration of justice and not a mere money-getting trade.

13. Contingent Fees

A contract for a contingent fee, where sanctioned by law, should be reasonable under all the circumstances of the case, including the risk and uncertainty of the compensation, but should always be subject to the supervision of a court, as to its reasonableness.

14. Suing a Client for a Fee

Controversies with clients concerning compensation are to be avoided by the lawyer so far as shall be compatible with his self-respect and with his right to receive reasonable recompense for his services; and lawsuits with clients should be resorted to only to prevent injustice, imposition or fraud.

15. How Far a Lawyer May Go in Supporting a Client's Cause

Nothing operates more certainly to create or to foster popular prejudice against lawyers as a class, and to deprive the profession of that full measure of public esteem and confidence which belongs to the proper discharge of its duties than does the false claim, often set up by the unscrupulous in defense of questionable transactions, that it is the duty of the lawyer to do whatever may enable him to succeed in winning his client's cause.

It is improper for a lawyer to assert in argument his personal belief in his client's innocence or in the justice of his cause.

The lawyer owes "entire devotion to the interest of the client, warm zeal in the maintenance and defense of his rights and the exertion of his utmost learning and ability," to the end that nothing be taken or be withheld from him, save by the rules of law, legally applied. No fear of judicial

disfavor or public unpopularity should restrain him from the full discharge of his duty. In the judicial forum the client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land, and he may expect his lawyer to assert every such remedy or defense. But it is steadfastly to be borne in mind that the great trust of the lawyer is to be performed within and not without the bounds of the law. The office of attorney does not permit, much less does it demand of him for any client, violation of law or any manner of fraud or chicane. He must obey his own conscience and not that of his client.

16. Restraining Clients from Improprieties

A lawyer should use his best efforts to restrain and to prevent his clients from doing those things which the lawyer himself ought not to do, particularly with reference to their conduct towards Courts, judicial officers, jurors, witnesses and suitors. If a client persists in such wrongdoing the lawyer should terminate their relation.

17. Ill-Feeling and Personalities Between Advocates

Clients, not lawyers, are the litigants. Whatever may be the ill-feeling existing between clients, it should not be allowed to influence counsel in their conduct and demeanor toward each other or toward suitors in the case. All personalities between counsel should be scrupulously avoided. In the trial of a cause it is indecent to allude to the personal history or the personal peculiarities and idiosyncrasies of counsel on the other side. Personal colloquies between counsel which cause delay and promote unseemly wrangling should also be carefully avoided.

18. Treatment of Witnesses and Litigants

A lawyer should always treat adverse witnesses and suitors with fairness and due consideration, and he should never minister to the malevolence or prejudices of a client in the trial or conduct of a cause. The client cannot be made the keeper of the lawyer's conscience in professional matters. He has no right to demand that his counsel shall abuse the opposite party or indulge in offensive personalities. Improper speech is not excusable on the ground that it is what the client would say if speaking in his own behalf.

19. Appearance of Lawyer as Witness for His Client

When a lawyer is a witness for his client, except as to merely formal matters, such as the attestation or custody of an instrument and the like, he should leave the trial of the case to other counsel. Except when essential to the ends of justice, a lawyer should avoid testifying in court in behalf of his client.

20. Newspaper Discussion of Pending Litigation

Newspaper publications by a lawyer as to pending or anticipated litigation may interfere with a fair trial in the Courts and otherwise prejudice the due administration of justice. Generally they are to be condemned. If the extreme circumstances of a particular case justify a statement to

the public, it is unprofessional to make it anonymously. An ex parte reference to the facts should not go beyond quotation from the records and papers on file in the court; but even in extreme cases it is better to avoid any ex parte statement.

21. Punctuality and Expedition

It is the duty of the lawyer not only to his client, but also to the Courts and to the public to be punctual in attendance, and to be concise and direct in the trial and disposition of causes.

22. Candor and Fairness

The conduct of the lawyer before the Court and with other lawyers should be characterized by candor and fairness.

It is not candid or fair for the lawyer knowingly to misquote the contents of a paper, the testimony of a witness, the language or the argument of opposing counsel, or the language of a decision or a textbook; or with knowledge of its invalidity, to cite as authority a decision that has been overruled, or a statute that has been repealed; or in argument to assert as a fact that which has not been proved, or in those jurisdictions where a side has the opening and closing arguments to mislead his opponent by concealing or withholding positions in his opening argument upon which his side then intends to rely.

It is unprofessional and dishonorable to deal other than candidly with the facts in taking the statements of witnesses, in drawing affidavits and other documents, and in the presentation of causes.

A lawyer should not offer evidence which he knows the Court should reject, in order to get the same before the jury by argument for its admissibility, nor should he address to the Judge arguments upon any point not properly calling for determination by him. Neither should he introduce into an argument, addressed to the court, remarks or statements intended to influence the jury or bystanders.

These and all kindred practices are unprofessional and unworthy of an officer of the law charged, as is the lawyer, with the duty of aiding in the administration of justice.

23. Attitude Toward Jury

All attempts to curry favor with juries by fawning, flattery or pretended solicitude for their personal comfort are unprofessional. Suggestions of counsel, looking to the comfort or convenience of jurors, and propositions to dispense with argument, should be made to the Court out of the jury's hearing. A lawyer must never converse privately with jurors about the case; and both before and during the trial he should avoid communicating with them, even as to matters foreign to the cause.

24. Right of Lawyer to Control the Incidents of the Trial

As to incidental matters pending the trial, not affecting the merits of the cause, or working substantial prejudice to the rights of the client, such as forcing the opposite lawyer to trial when he is under affliction or bereavement; forcing the trial on a particular day to the injury of the opposite

lawyer when no harm will result from a trial at a different time; agreeing to an extension of time for signing a bill of exceptions, cross interrogatories and the like, the lawyer must be allowed to judge. In such matters no client has a right to demand that his counsel shall be illiberal, or that he do anything therein repugnant to his own sense of honor and propriety.

25. Taking Technical Advantage of Opposite Counsel; Agreements with Him

A lawyer should not ignore known customs or practice of the Bar or of a particular Court, even when the law permits, without giving timely notice to the opposing counsel. As far as possible, important agreements, affecting the rights of clients, should be reduced to writing; but it is dishonorable to avoid performance of an agreement fairly made because it is not reduced to writing, as required by rules of Court.

26. Professional Advocacy Other than Before Courts

A lawyer openly, and in his true character may render professional services before legislative or other bodies, regarding proposed legislation and in advocacy of claims before departments of government, upon the same principles of ethics which justify his appearance before the Courts; but it is unprofessional for a lawyer so engaged to conceal his attorneyship, or to employ secret personal solicitations, or to use means other than those addressed to the reason and understanding, to influence action.

27. Advertising, Direct or Indirect

The customary use of simple professional cards is permissible. Publication in approved law lists and legal directories, in a manner consistent with the standard of conduct imposed by these Canons, of brief biographical data is permissible. This may include only a statement of the lawyer's name and the names of his professional associates, addresses, telephone numbers, cable addresses, special branches of the profession practiced, date and place of birth and admission to the Bar, schools attended with dates of graduation and degrees received, public offices and posts of honor held, Bar and other Association memberships and, with their consent, the names of clients regularly represented. This does not permit solicitation of professional employment by circulars, or advertisements, or by personal communications or interviews not warranted by personal relations. It is unprofessional to endeavor to procure professional employment through touters of any kind. Indirect advertisements for professional employment, such as furnishing or inspiring newspaper comments, or procuring his photograph to be published in connection with causes in which the lawyer has been or is engaged or concerning the manner of their conduct, the magnitude of the interest involved, the importance of the lawyer's position, and all other like self-laudation, offend the traditions and lower the tone of our profession and are reprehensible.

28. Stirring Up Litigation, Directly or Through Agents

It is unprofessional for a lawyer to volunteer

advice to bring a lawsuit, except in rare cases where ties of blood, relationship or trust make it his duty to do so. Stirring up strife and litigation is not only unprofessional, but it is indictable at common law. It is disreputable to hunt up defects in titles or other causes of action and inform thereof in order to be employed to bring suit or collect judgment, or to breed litigation by seeking out those with claims for personal injuries or those having any other grounds of action in order to secure them as clients, or to employ agents or runners for like purposes, or to pay or reward, directly or indirectly, those who bring or influence the bringing of such cases to his office, or to remunerate policemen, court or prison officials, physicians, hospital attachés or others who may succeed, under the guise of giving disinterested friendly advice, in influencing the criminal, the sick and the injured, the ignorant or others, to seek his professional services. A duty to the public and to the profession devolves upon every member of the Bar having knowledge of such practices upon the part of any practitioner immediately to inform thereof, to the end that the offender may be disbarred.

29. Upholding the Honor of the Profession

Lawyers should expose without fear or favor before the proper tribunals corrupt or dishonest conduct in the profession, and should accept without hesitation employment against a member of the Bar who has wronged his client. The counsel upon the trial of a cause in which perjury has been committed owe it to the profession and to the public to bring the matter to the knowledge of the prosecuting authorities. The lawyer should aid in guarding the Bar against the admission to the profession of candidates unfit or unqualified because deficient in either moral character or education. He should strive at all times to uphold the honor and to maintain the dignity of the profession and to improve not only the law but the administration of justice.

30. Justifiable and Unjustifiable Litigations

The lawyer must decline to conduct a civil cause or to make a defense when convinced that it is intended merely to harass or to injure the opposite party or to work oppression or wrong. But otherwise it is his right, and, having accepted retainer, it becomes his duty to insist upon the judgment of the Court as to the legal merits of his client's claim. His appearance in Court should be deemed equivalent to an assertion on his honor that in his opinion his client's case is one proper for judicial determination.

31. Responsibility for Litigation

No lawyer is obliged to act either as adviser or advocate for every person who may wish to become his client. He has the right to decline employment. Every lawyer upon his own responsibility must decide what employment he will accept as counsel, what causes he will bring into Court for plaintiffs, what cases he will contest in Court for defendants. The responsibility for advising as to questionable transactions, for bringing questionable suits, for urging questionable defenses, is the lawyer's responsibility. He cannot

escape it by urging as an excuse that he is only following his client's instructions.

32. The Lawyer's Duty in Its Last Analysis

No client, corporate or individual, however powerful, nor any cause, civil or political, however important, is entitled to receive nor should any lawyer render any service or advice involving disloyalty to the law whose ministers we are, or disrespect of the judicial office, which we are bound to uphold, or corruption of any person or persons exercising a public office or private trust, or deception or betrayal of the public. When rendering any such improper service or advice, the lawyer invites and merits stern and just condemnation. Correspondingly, he advances the honor of his profession and the best interests of his client when he renders service or gives advice tending to impress upon the client and his undertaking exact compliance with the strictest principles of moral law. He must also observe and advise his client to observe the statute law, though until a statute shall have been construed and interpreted by competent adjudication, he is free and is entitled to advise as to its validity and as to what he conscientiously believes to be its just meaning and extent. But above all a lawyer will find his highest honor in a deserved reputation for fidelity to private trust and to public duty, as an honest man and as a patriotic and loyal citizen.

33. Partnerships—Names

Partnerships among lawyers for the practice of their profession are very common and are not to be condemned. In the formation of partnerships and the use of partnership names care should be taken not to violate any law, custom, or rule of court locally applicable. Where partnerships are formed between lawyers who are not all admitted to practice in the courts of the State, care should be taken to avoid any misleading name or representation which would create a false impression as to the professional position or privileges of the member not locally admitted. In the formation of partnerships for the practice of law, no person should be admitted or held out as a practitioner or member who is not a member of the legal profession duly authorized to practice, and amenable to professional discipline. In the selection and use of a firm name, no false, misleading, assumed or trade name should be used. The continued use of the name of a deceased or former partner, when permissible by local custom, is not unethical, but care should be taken that no imposition or deception is practiced through this use. When a member of the firm, on becoming a judge, is precluded from practicing law, his name should not be continued in the firm name.

Partnerships between lawyers and members of other professions or non-professional persons should not be formed or permitted where any part of the partnership's employment consists of the practice of law.

34. Division of Fees

No division of fees for legal services is proper, except with another lawyer, based upon a division of service or responsibility.

35. Intermediaries

The professional services of a lawyer should not be controlled or exploited by any lay agency, personal or corporate, which intervenes between client and lawyer. A lawyer's responsibilities and qualifications are individual. He should avoid all relations which direct the performance of his duties by or in the interest of such intermediary. A lawyer's relation to his client should be personal, and the responsibility should be direct to the client. Charitable societies rendering aid to the indigents are not deemed such intermediaries.

A lawyer may accept employment from any organization, such as an association, club or trade organization, to render legal services in any matter in which the organization, as an entity, is interested, but this employment should not include the rendering of legal services to the members of such an organization in respect to their individual affairs.

36. Retirement from Judicial Position or Public Employment

A lawyer should not accept employment as an advocate in any matter upon the merits of which he has previously acted in a judicial capacity.

A lawyer, having once held public office or having been in the public employ, should not after his retirement accept employment in connection with any matter which he has investigated or passed upon while in such office or employ.

37. Confidences of a Client

It is the duty of a lawyer to preserve his client's confidences. This duty outlasts the lawyer's employment, and extends as well to his employees; and neither of them should accept employment which involves or may involve the disclosure or use of these confidences, either for the private advantage of the lawyer or his employees or to the disadvantage of the client, without his knowledge and consent, and even though there are other available sources of such information. A lawyer should not continue employment when he discovers that this obligation prevents the performance of his full duty to his former or to his new client.

If a lawyer is accused by his client, he is not precluded from disclosing the truth in respect to the accusation. The announced intention of a client to commit a crime is not included within the confidences which he is bound to respect. He may properly make such disclosures as may be necessary to prevent the act or protect those against whom it is threatened.

38. Compensation, Commission and Rebates

A lawyer should accept no compensation, commissions, rebates or other advantages from others without the knowledge and consent of his client after full disclosure.

39. Newspapers

A lawyer may with propriety write articles for publications in which he gives information upon the law; but he should not accept employment from such publications to advise inquirers in respect to their individual rights.

40. Discovery of Imposition and Deception

When a lawyer discovers that some fraud or de-

ception has been practiced, which has unjustly imposed upon the court or a party, he should endeavor to rectify it; at first by advising his client, and if his client refuses to forego the advantage thus unjustly gained, he should promptly inform the injured person or his counsel, so that they may take appropriate steps.

41. Expenses

A lawyer may not properly agree with a client that the lawyer shall pay or bear the expenses of litigation; he may in good faith advance expenses as a matter of convenience, but subject to reimbursement.

42. Approved Law Lists

It shall be improper for a lawyer to permit his name to be published after January 1, 1939, in a law list that is not approved by the American Bar Association.

43. Withdrawal from Employment as Attorney or Counsel

The right of an attorney or counsel to withdraw from employment once assumed, arises only from good cause. Even the desire or consent of the client is not always sufficient. The lawyer should not throw up the unfinished task to the detriment of his client except for reasons of honor or self-respect. If the client insists upon an unjust or immoral course in the conduct of his case, or if he persists over the attorney's remonstrance in presenting frivolous defenses, or if he deliberately disregards an agreement or obligation as to fees or expenses, the lawyer may be warranted in withdrawing on due notice to the client, allowing him time to employ another lawyer. So also when a lawyer discovers that his client has no case and the client is determined to continue it; or even if the lawyer finds himself incapable of conducting the case effectively. Sundry other instances may arise in which withdrawal is to be justified. Upon withdrawing from a case after a retainer has been paid, the attorney should refund such part of the retainer as has not been clearly earned.

44. Specialists

The canons of the American Bar Association apply to all branches of the legal profession; specialists in particular branches are not to be considered as exempt from the application of these principles.

45. Notice of Specialized Legal Service

Where a lawyer is engaged in rendering a specialized legal service directly and only to other lawyers, a brief, dignified notice of that fact, couched in language indicating that it is addressed to lawyers, inserted in legal periodicals and like publications, when it will afford convenient and beneficial information to lawyers desiring to obtain such service, is not improper.

46. Aiding the Unauthorized Practice of Law

No lawyer shall permit his professional services, or his name, to be used in aid of, or to make possible, the unauthorized practice of law by any lay agency, personal or corporate.

A

It shall be deemed unethical and unprofessional for a member of The North Carolina State Bar,

who is now or who may hereafter become a partner of any judge of any court inferior to the Superior Court, to practice his profession in the court of any such judge, during the existence of such copartnership.

B

It shall be deemed unethical and unprofessional for a member of The North Carolina State Bar, who is now or who may hereafter become a partner of a solicitor or prosecuting attorney of any court of the State of North Carolina, to practice his profession in any criminal court of such solicitor or prosecuting attorney.

C

It shall be deemed unethical and unprofessional for any attorney who is, or has been, a prosecuting officer in any court inferior to the Supreme Court, or in any Federal Court, to accept professional employment in any matter of a civil or criminal nature growing out of any matter or thing which is or may have been in any way connected with the office of such prosecuting officer during his incumbency.

D

It shall be deemed unethical for any Judge or Solicitor of any criminal court inferior to the Superior Court to appear in any criminal proceeding, whether for the defendant or for the State, in other Courts of his county having criminal jurisdiction, whether concurrent with, inferior to or superior to the criminal jurisdiction of the Court over which he shall preside, or over which he shall be the prosecuting officer, except that this Canon shall not apply to Mayors of Incorporated Towns having like jurisdiction in criminal matters as a Justice of the Peace, except that such Mayors shall not appear in any criminal matters arising within their jurisdiction. Provided further, that nothing in this Canon is intended to preclude the Solicitor of any Recorder's Court or County Court from appearing in the Superior Court upon request of the District Solicitor.

E

It shall be deemed unethical and unprofessional for any attorney to represent any defendant in any criminal action where such attorney or member of his family has personally signed an appearance bond with or without compensation, or wherein he has acted as agent or officer for, or is financially interested in, any person, firm, or corporation in executing such bond.

F

That it appearing to the Council that the United States Government has called for competitive bidding from lawyers to do abstract work and that upon the request of the Government lawyers have submitted competitive bids for such work—and the question having been raised as to whether such bidding is ethical—NOW, therefore, be it resolved that it is the sense of this Council that hereafter any competitive bidding for any legal work is deemed to be unethical.

G

Hereafter it shall be improper for an attorney to have his name printed in any directory in bold face type.

ARTICLE XI.

**Filing Papers with and Serving the North
Carolina State Bar**

Section 1. When Papers Are Filed under These Rules and Regulations.—Whenever in these rules and regulations there is a requirement that petitions, notices or other documents be filed with or served on The North Carolina State Bar, or the Council, the same shall be filed with or served on the Secretary of The North Carolina Bar.

ARTICLE XII.

Section 1. Seal.—The North Carolina State Bar shall have a seal round in shape and having the words and figures, "The North Carolina State Bar — July 1, 1933," with the word "Seal" in the center. The seal shall remain in the custody of the Secretary-Treasurer at the office of The North Carolina State Bar, unless otherwise ordered by the Council.

VII. Rules Governing Admission to Practice of Law

Adopted by the Board of Law Examiners and
Approved by the Council of the North
Carolina State Bar

1. Effective Date of These Rules.—Except as otherwise provided herein, the rules of the Supreme Court as contained in 200 N. C. 813, shall govern application for admission to the practice of law at the examinations to be held in August, 1935, and January, 1936; thereafter the following rules shall govern, provided that, when the going into effect of any of the following rules is postponed, the approximate corresponding rules of the Supreme Court shall in the meantime control.

2. Compliance Necessary.—Subject to the provisions of the foregoing paragraph, no person shall hereafter be admitted to the practice of law in North Carolina until and unless he has complied with these rules and the laws of the State.

3. Definitions.—The terms "board" and "secretary" as herein used refer, respectively, to the Board of Law Examiners of North Carolina and the Secretary of the same. Masculine pronouns shall be deemed to include the female.

4. Applications.—Every person desiring to be admitted to the practice of law in North Carolina shall file an application with the Secretary not later than the 15th day of June prior to the next bar examination. This application shall contain such information as is called for by the blanks approved by the Board, and shall be accompanied by the fee required by Rule 18, and by such evidence of good moral character, certificates of general and legal education, and other credentials as applicant relies upon to show compliance with these rules. All applications, proofs, and certificates shall be made upon blanks furnished by the Secretary. As soon as possible after June 15 of each year the Secretary shall make public the list of applicants.

5. Citizenship, Character, Age, Residence.—Each applicant at the time of filing his application, must be a citizen of the United States, a person of good moral character, and must have been, for the twelve months next preceding the filing of his application, a citizen and resident of North Carolina, or must have been a nonresident student, for one scholastic year next preceding the filing of his application, in an approved North Carolina law school who has the intention, in good faith, of becoming a citizen and resident of North Carolina within six months after filing his application, in which latter event license shall not actually issue to him until and unless within this six-months' period he has become a citizen and resident of North Carolina, and has satisfied the Chairman of the Board to that effect. He must be at least 21 years of age at the time of filing his application, or of such an age that he will become 21 within twelve months next after filing his application, provided that no license shall actually issue to any person until he has reached the age of 21.

6. Moral Character of Applicant.—No applicant

shall be licensed upon examination or by comity until and unless he has been found by the Board to be of good moral character. Each applicant shall furnish certificates of good moral character from four responsible persons, at least two of whom shall be members of The North Carolina State Bar, practicing in the Supreme Court, provided that in exceptional and meritorious cases the Board may accept, in lieu of certificates from North Carolina practitioners, certificates from two attorneys of another State who are members of the Bar of the highest court in that State, and who accompany their certificates with proof to that effect.

Any person whose application for admission to the practice of law, either by examination or comity, has been denied on account of the lack of good moral character shall thereafter be ineligible to take the examination or have his credentials considered for two years.

7. Law Students to Register.—No one shall be permitted to take the examination to be held in August, 1936, and thereafter, unless he shall have previously registered with the Secretary as a law student, provided that all persons who have begun the study of law prior to June 15, 1936, shall be allowed to that date to register. In determining whether or not an applicant to take an examination has complied with Rules 9, 10, and 11, no time spent in legal study prior to sixty days before the date of his registration will be counted, except that students registering on and prior to June 15, 1936, shall be given credit for the entire time of their legal study prior to their respective dates of registration. Registration shall be upon blanks prescribed by the Board and shall be accompanied by the certificate of the dean of that approved law school in which the applicant has matriculated, or of that lawyer under whose instruction the applicant proposes to study (who must at the time have been a licensed practitioner in North Carolina for five years), corroborating the fact in the application of which such dean or lawyer has personal knowledge, and giving to the Board such information and such pledges of intention to be governed by these rules in the instruction of the applicant as the Board shall require. Registration papers shall be accompanied by the registration fee of one dollar required by Rule 18. Upon receipt of the registration papers, corroborating certificates, and the registration fee, the Secretary shall acknowledge the same and shall make entry upon his records to that effect. Whenever a registered law student changes his home address, or changes the school in which, or the lawyer under whom, he is studying, or whenever he shall abandon the study of law, he shall notify the Secretary of that fact within sixty days thereafter. Where a person applying to take the examination to be held in August, 1936, or an examination to be held thereafter shall have begun and pursued his legal studies outside of North Carolina and shall have failed to register as required above, deferred registration may, in exceptional and meritorious cases, be permitted by the Board.

From time to time during the period of the student's study the Board may require reports from him or the law school in which, or the lawyer under whom, he is studying concerning the kind and character of work he is doing and training he is receiving, and, if upon such investigation the Board is of the opinion that the work he is doing or the training he is receiving does not constitute a compliance with these rules, it may refuse to allow him credit for such work, or it may take such other action as seems to it appropriate.

8. General Education.—(a) Each person seeking to take the examination which is to be held in August, 1938, or any examination held thereafter, must, prior to taking such examination, have received a standard four-year high school education or its equivalent. This may be evidenced by the certificate of the principal of the high school last attended, if applicant is a graduate of a four-year high school fully accredited at the time of graduation by the North Carolina State Department of Education. Otherwise, the Board shall ascertain whether or not the applicant has complied with this rule by such investigations and examinations as shall satisfy it.

The Board of Law Examiners will, within the meaning of Rule 8 (a), deem an applicant to have the equivalent of a standard four-year high school education who has a diploma from a high school of any State accredited by the Department of Education of such State as a standard high school or who has been accepted as a first-year student in a senior college in any State accredited by the Department of Education of that State, or who has completed the first two years of study in a junior college of any State accredited by the Department of Education of that State, or has a diploma from a preparatory school recognized as a standard preparatory school of the grade of a standard high school by the Department of Education of the State where located.

(b) Each applicant, to take the examination to be held in August, 1940, and thereafter, must, prior to beginning the study of law, have completed, at a standard college, an amount of academic work equal to one-half of the work required for a bachelor's degree at the university of the State in which the college is located. With this application he shall file a certificate from such college furnishing all information that the Board shall require. If such person has not taken the above described amount of college work, or for any reason cannot furnish a certificate of such work, he may request an examination upon his general education, whereupon the Board itself or through some agency designated by it, shall examine him. If upon such examination, the Board is satisfied that his general education is sufficient to qualify the applicant to practice law, the Board may find that he has met the requirements of this rule as to general education.

If a person applying to take the examination to be held in August, 1940, or an examination to be held thereafter, cannot qualify under the above-stated provisions of this rule, the Board shall allow him to take the examination and be admitted if he has previously been accepted by an approved law school as a special student, if at such school he has complied with either Rule 9 (a) or Rule

9 (b), and if he presents a certificate to that effect by the dean of that school.

9. Legal Education.—Each person applying to take the examination in August, 1942, or thereafter, must have studied law for three years, all of which study must have been completed within a period of six years. During that period, he must either (a) have studied as a minimum requirement, all of the required subjects and any five of the optional subjects listed in Rule 13, or (b) he must have graduated from an approved law school.

A person shall be deemed to have complied with this rule if at the time of filing his application he presents the certificate of the dean of an approved law school that he (the applicant) will complete the course of study required for graduation from that school during the current summer session conducted by that school. No license shall be issued, however, until the dean certifies that the applicant has satisfactorily completed that course of study and has graduated, provided that no review of work in preparation for the bar examination shall have constituted any part of the summer's course of study.

A person shall be deemed to have graduated from an approved law school for the purposes of these rules, if he has complied with all of the requirements for graduation therefrom except those relating to pre-legal education and if he was originally admitted to the law school as a special student and not as a candidate for a law degree.

10. Evidence of Legal Education.—Compliance with Rule 9 must be evidenced (a) by the certificate of the dean of an approved law school that the applicant has studied law in that school for three years and that he has passed examinations given by the faculty on all the required subjects and on five of the optional subjects listed in Rule 13, or that he has graduated from that law school; or (b) by the affidavit of a member of the North Carolina State Bar engaged in active practice of law, who has been a licensed practitioner in North Carolina for five years prior to the beginning of instruction, that the applicant has studied law under his personal instruction for three years and that he has passed written examinations given by him on all the required subjects and on five of the optional subjects listed in Rule 13; which affidavit shall be made on the form prescribed by the Board of Law Examiners, and the originals of which written examinations, and the answers thereto shall be attached to such affidavit; or (c) by a combination of such certificates showing that the aggregate total of the applicant's study in an approved law school or schools and under a lawyer or lawyers has equaled three years, and that he has passed written examinations on all the required subjects and on five of the optional subjects listed in Rule 13; and no certificate showing study outside of an approved law school for less than six consecutive months will be considered. Persons who have studied law outside of North Carolina will not be allowed credit for the time spent in such study, except to the extent that the same has been pursued in an approved law school.

11. Years of Study Defined.—A year of study, within the meaning of Rule 9, shall consist of a

minimum of either (a) thirty weeks, excluding vacations but including examinations, embracing an average of twelve hours of classroom work each week, and an average of two hours' preparation required for each hour of recitation, spent in a law school approved by the Board; or (b) forty-five weeks, exclusive of vacations embracing an aggregate of ten hundred and eighty hours during this period devoted to study, recitations, and examinations, and with final examinations in each subject of at least two hours' duration, spent under the personal instruction of a member of The North Carolina State Bar who, at the beginning of his instruction of the applicant, has been a licensed practitioner in North Carolina for five years.

Study in the summer session of any law school approved by the Board shall count for the same part as a year's study, within the meaning of this rule, as it is counted toward graduation under the regulations of that school.

12. Approved Law Schools.—The law schools maintained by the University of North Carolina, Duke University, and Wake Forest College are hereby approved; other law schools will be approved if and when they satisfy the Board that their standards, work, and equipment are substantially the equivalent of those of one or the other of the above-mentioned law schools. The Board may, from time to time, withdraw approval from law schools previously approved, if and when it determines that they do not conform to the foregoing requirements.

13. Examinations.—Beginning with the examination to be held in August, 1936, there shall be held one examination each year of those applying to be admitted to practice law in North Carolina; it shall be held in the City of Raleigh and shall commence on the first Tuesday in August at 10 a. m. No person other than one applying for admission by comity will be admitted to the practice of law until and unless he has been found by the Board to have duly passed an examination given in accordance with this rule, the Board being hereby vested with the authority to determine what shall constitute the passing of an examination. The examinations to be given in August, 1942, and thereafter, will deal with the following required and optional subjects: Required: Agency, Business Associations (including corporations, partnerships, joint stock companies and business trusts), Civil Procedure, Constitutional Law, Contracts, Criminal Law and Procedure, Equity, Evidence, Legal Ethics, Negotiable Instruments, Personal Property, Real Property, Security Transactions (including mortgages, security deeds of trust, trust receipts, pledges, conditional sales, guaranty and suretyship), Torts, and Wills and Administration. Optional: Administrative Law, Conflict of Laws, Debtor's Estates (including bankruptcy, receiverships, assignments for the benefit of creditors, compositions and state reorganization and insolvency statutes), Domestic Relations, Federal Jurisdiction and Procedure, Future Interests, Insurance, Labor Law, Municipal Corporations, Public Utilities, Quasi-Contracts, Sales, Taxation, Trade Regulation, and Trusts.

Applicants will be expected to answer all of the questions relating to the required subjects and those relating to any five of the optional subjects.

13 (a). For the purpose of meeting such emergencies as may arise during the present war, the Board may allow such applicants as are qualified to take any regular examination, but who are members of the armed forces, to take the examinations of this Board at or about the same time and during the same or about the same periods through proctors authorized by the Board at or near the stations where the applicants may be located. Any applicant taking an examination under this amendment shall be required to pay any added expense attached to such examination and the Board may consider the papers submitted by the applicant at such meeting as it may deem proper. For the purposes of effectuating this rule the Secretary is authorized to waive the requirements as to time of filing application. This rule is adopted for the purpose of meeting the emergency created by the present war.

14. Protest.—Any person may protest the right of any applicant to be admitted to the practice of law either by examination or as a matter of comity. Such protest shall be made in writing, signed by the person making the protest, and bearing his home and business address, and shall be filed with the Secretary of the Board not later than July 15 previous to the date on which the next succeeding examination is to be held. The Secretary shall immediately notify the applicant of the protest and of the charges therein made; and the applicant may thereupon withdraw as a candidate for admission to the practice of law at that examination; but, in case his withdrawal in writing is not received by the Secretary by noon of the Saturday preceding the examination, he shall not be allowed thereafter to withdraw, and the person making the protest and the applicant in question shall appear before the Board at 10 o'clock a. m. of the Monday preceding the examination, whereupon the Board shall proceed forthwith to hear the matter and to make such disposition thereof as in its judgment seems just and in accordance with these rules and with the laws of North Carolina. The protest shall not be made public unless and until the final disposition of the matter has been determined adversely to the interest of the applicant.

15. Certificates Not Conclusive.—Certificates furnished by an applicant shall not be conclusive upon the Board as to the facts therein stated; it shall make such investigation as it sees fit into the character of an applicant and the facts relating to the question as to whether or not he has complied with these rules; and if it desires, it may require the applicant to appear in person before it, or before some person designated by it, at or before the time of the examination which the applicant is seeking to take, for the purpose of eliciting from him additional information. All information furnished to the Board by an applicant, and all answers and questions upon blanks furnished by the Board, shall be deemed material.

16. Effect of Disbarment, Suspension or Disciplinary Proceedings.—No one who has been suspended or disbarred from practicing law in this or any other State, or by any Federal Court, and whose sentence of suspension has not expired or whose sentence of disbarment has not been rescinded, and whose license to practice has not

been restored, or against whom there are pending in any State or Federal Court charges, or proceedings undisposed of relating to his professional conduct shall be allowed to stand any examination held after the adoption of these rules, or admitted to practice law in this State by comity or otherwise. No one shall be admitted to practice law in this State by examination or comity who fails to disclose fully to the Board, whether requested to do so or not, the facts relating to any disciplinary proceedings or charges, relating to his professional conduct, whether same have been terminated or not, in this or any other State, or any Federal Court or other jurisdiction.

17. Comity.—Any person duly licensed to practice law in another State may be licensed to practice law in this State without examination, if attorneys who are licensed in this State may be licensed without examination in the State in which he was licensed upon the applicant's furnishing to the Board a certificate from a member of the court of last resort of such State that he is duly licensed to practice law therein, and that he has been actively engaged in the practice of law before the Courts of said State and the Courts of the Federal Government, or as a full-time teacher in a law school approved by the Board, for five years or more, is in good professional standing, with no charges undisposed of against him as to professional conduct, and is of good moral character and a proper person to be licensed to practice law, together with a certificate from two practicing attorneys of such State, practicing in the court of last resort, and two persons who are not attorneys, as to the applicant's good moral character, whose signatures shall be attested by the clerk of the court; upon the applicant's satisfying the Board that he has complied with the provisions of Rule 5 relating to citizenship and residence in North Carolina.

Applicants for admission to practice law under this rule shall be required to deposit with the Secretary of the Board the same amount required of applicants who stand the examination, and they shall be required to file with the Secretary on or before the 15th day of June of the year in which they desire to be admitted all of the certificates

and other documents required by these rules. In addition to all other fees required by these rules, each applicant for admission under this rule shall deposit with the Secretary the sum of \$50.00 to be used as the Board may direct for investigation or otherwise. If the fee charged comity applicants in such states or jurisdiction from which the applicant files shall be in excess of the total amount chargeable under the rules of this Board, then an amount equal to the charges fixed to be paid by comity applicants applying from this State in such foreign states or jurisdiction shall be paid to this Board. No license shall be issued to any applicant for admission under this rule except at the time of the annual examination of applicants after the filing of applications as required by Rule 4, and after determination of any protest that may be filed under Rule 14: Provided, that the Board may, when in session at any other time, grant an interim permission to such applicant to practice law until license shall be issued or declined: Provided further, that such applicant must have previously complied with all the requirements of this rule.

18. Fees.—(a) Each person registering in accordance with Rule 7, shall, at the time of registering, pay to the Secretary one dollar; and the money derived from the payment of registration fees shall be used to defray the expenses of administering Rule 7 and the other expenses of the Board.

(b) All applicants to take examinations held after the adoption of these rules shall pay to the Secretary a filing fee of one dollar and fifty cents, and shall deposit with him an additional sum of twenty-two dollars, of which last named sum two dollars shall be considered a deposit to pay for license if issued. Any applicant who shall fail to pass the examination shall receive a refund of twelve dollars from said twenty-two dollars so deposited.

19. Issuance of License.—Upon compliance with these rules the Secretary shall issue to each successful applicant a license to practice law in North Carolina, the same to be in such form as may be prescribed by the Board.

VIII. Comparative Tables

(1) TABLE OF COMPARATIVE SECTIONS

The numbers preceding the dots refer to sections in the Consolidated Statutes and in Michie's Codes; the numbers following the dots give the corresponding section in the General Statutes of North Carolina. The letters L. M. following the dots indicate that the section is not codified but has been made a local modification citation under the number following the above letters. For table of deleted sections, see Appendix VIII, (2).

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(2) TABLE OF DELETED SECTIONS

The sections in this table appeared in the Consolidated Statutes and in the Michie Codes. For sections transferred into sections of the General Statutes, see Appendix VIII, (1).

Sections in this table preceded by a star represent the following types of laws which were not codified in the General Statutes of North Carolina: (1) local in application affecting less than ten counties; (2) excepting pending litigation; (3) construction clauses; (4) repealing clauses; (5) partial invalidity clauses. The omission of such statutes does not for that reason repeal them. See General Statutes, sections 164-1 to 164-8.

Where a section was repealed by reference to its corresponding number in the General Statutes such number appears in parentheses following the repealed section.

The following abbreviations have been used in this table: Con. St. = Construction Statute; Loc. = Local; Obs. = Obsolete; P. Inv. = Partial Invalidity; P. Lit. = Pending Litigation; Rep. = Repealed; Rpl. St. = Repealing Statute; Sup. = Superseded; Unconst. = Unconstitutional.

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§ 179-181. Obs.	§ 252. Sup., § 53-122.
§ 182-191. Rep., 1935, c. 243.	§ 253. Sup., §§ 53-20, 53-118.
§ 191(s) (§ 63-19). Rep., 1943, c. 543.	§ 254. Sup., § 53-121.
§ 193(a)-193(h). Obs.	§ 255. Sup., § 53-136.
§ 193(12). Obs.	§ 256. Sup., § 53-137.
§ 194-196. Sup., § 84-24.	§ 257. Sup., § 53-139.
§ 204-215. Rep., 1933, c. 210, s. 20.	§ 258. Sup., § 53-138.
§ 216. Sup., § 53-2.	§ 259. Sup., § 53-141.
§ 217. Sup., §§ 53-3 to 53-5.	§ 260. Sup., § 53-142.
§ 217(m)1-217(m)13. Obs.	§ 261. Sup., § 53-143.
§ 218. Sup., § 53-6.	§ 262. Obs.
§ 218(d). Sup., § 53-20.	§ 263. Sup., § 53-144.
§ 218(r), 218(s). Obs.	§ 264. Sup., § 53-136.
§ 218(u). Obs.	§ 264(l). Obs.
§ 218(v). Unconst., 205 N. C. 822, 172 S. E. 484.	§ 265-276. Rep., 1933, c. 228.
§ 219. Sup., §§ 53-7, 53-8.	*281. P. Lit.
§ 219(a). Obs.	*282. P. Inv.
§ 219(a)2-219(a)4. Obs.	§ 360. Obs.
§ 219(b). Obs.	§ 454. Sup., § 52-1 et seq.
§ 219(d). Obs.	§ 482. Sup., § 1-94.
§ 220. Sup., § 53-43.	§ 486. Sup., § 1-121.
§ 221. Sup., § 53-61.	§ 492(a). Rep., 1927, c. 66, s. 2.
§ 221(s). Obs.	§ 594. Obs.
§ 221(u). Obs.	§ 597(c). Rep., 1943, c. 301, s. 3.
§ 222(c). Obs.	§ 616(a) (§ 1-238). Rep., 1943, c. 543.
§ 222(o). Obs.	§ 639. Obs.
§ 223. Sup., § 53-43.	§ 668. Rep., 1927, c. 24.
§ 224. Sup., § 53-64.	§ 694. Obs.
§ 225. Sup., § 53-60.	§ 756 (§ 1-397). Rep., 1943, c. 543.
§ 225(i), 225(j). Obs.	§ 766(b). Rep., 1941, c. 52, s. 3.
§ 225(l). Obs.	§ 858. Sup., §§ 105-267, 105-406.
§ 225(n)-225(r). Obs.	§ 955. Sup., §§ 114-10, 114-11.
§ 226-229. Sup., §§ 53-1, 53-48, 53-50, 53-51, 53-53, 53-59.	§ 1004 (§ 39-14). Rep., 1943, c. 543.
§ 231. Sup., § 53-52.	§ 1023-1034. Rep., 1933, c. 134.
§ 232. Sup., § 53-57.	§ 1035. Obs.
§ 233. Sup., § 53-58.	§ 1036. Obs.
§ 234. Sup., § 53-54.	§ 1065(a). Obs.
§ 235. Sup., § 53-14.	§ 1066(a). Obs.
§ 236. Sup., § 53-135.	§ 1076. Obs.
§ 237-239. Obs.	§ 1078-1081. Obs.
§ 240 (§ 53-147). Rep., 1943, c. 543.	§ 1084. Obs.
§ 241, 242. Obs.	§ 1089. Obs.
§ 243. Sup., § 53-41.	§ 1089(a), 1089(b). Obs.
§ 244. Sup., § 53-104.	§ 1092. Sup., § 62-12.
§ 245. Sup., § 53-137.	§ 1104. Obs.
§ 246. Obs.	§ 1112(c). Obs.
§ 247. Sup., §§ 53-106, 53-108.	§ 1112(f)-1112(j). Obs.
§ 248. Sup., § 53-107.	§ 1112(n). Sup., § 62-9.
§ 249. Sup., §§ 53-117, 53-118, 53-122.	§ 1112(p), 1112(q). Obs.
§ 250. Sup., §§ 53-122, 53-123.	§ 1112(t). Obs.
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1112(bb). Obs.	§ 2126. Sup., § 113-104.
1125(j). Rep., 1935, c. 489, s. 3.	§ 2128. Sup., §§ 113-104, 113-109.
1122 (§ 55-10). Rep., 1943, c. 543.	§ 2129. Sup., §§ 113-101, 113-109.
1124 (§ 55-12). Rep., 1943, c. 543.	§ 2130. Sup., §§ 113-106, 113-109.
1142 (§ 55-46). Rep., 1943, c. 543.	§ 2131. Sup., §§ 113-105, 113-106, 113-109.
1148. Obs.	§ 2133. Sup., §§ 113-104, 113-109.
1163, 1164. Rep., 1941, c. 353, s. 24.	§ 2134. Obs.
1291(a). Obs.	§ 2135. Sup., §§ 113-100, 113-106, 113-104, 113-109.
1302(18). Obs.	§ 2135(b). Sup., § 113-100.
1316(c). Sup., § 143-129.	§ 2135(c). Obs.
*1316(d). Con. St.	§ 2136. Sup., § 113-102.
1321(a)-1321(i). Sup., § 153-69 et seq.	§ 2137. Sup., §§ 113-100, 113-104.
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1334(44). Obs.	§ 2139. Sup., § 113-95.
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1334(86)-1334(100). Obs.	§ 2141. Sup., § 113-103.
1362. Sup., § 153-194.	§ 2141(a). Sup., §§ 113-84, 113-104.
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*1461(5), 1461(6). Loc.	§ 2141(e). Sup., § 113-83.
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1588. Sup., §§ 114-10, 114-11.	§ 2141(j). Sup., § 113-90.
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1608 (f)3(c). Rep., 1933, c. 405.	§ 2141(k). Sup., §§ 113-84, 113-91.
1608(dd)9. Obs.	§ 2141(l). Sup., §§ 113-34, 113-84.
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1959(d). Obs.	§ 2141(cc). Obs.
2016-2019. Rep., 1943, c. 582.	§ 2141(ee). Sup., §§ 113-91, 113-95.
2046. Rep., 1931, c. 365.	§ 2141(ff). Sup., § 113-97.
2060. Rep., Ex. Sess., 1921, c. 42, s. 5.	§ 2141(gg). Sup., § 113-98.
2078-2078(o). Sup., §§ 113-143 to 113-157.	§ 2141(gg)1. Sup., § 113-95.
*2078(aa). Con. St.	§ 2141(hh). Sup., § 113-99.
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2108. Sup., § 113-107.	§ 2141(rr). Sup., § 113-100.
2109. Sup., § 113-100.	§ 2141(ss). Obs.
2109(a). Obs.	§ 2141(tt)-2141(vv). Obs.
2111-2117. Sup., § 113-100.	§ 2141(ww). Sup., §§ 113-33, 113-94.
2118. Sup., §§ 113-100, 113-102.	§ 2141(xx). Sup., §§ 113-86, 113-91.
2119-2120. Sup., § 113-100.	§ 2141(yy). Obs.
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2122. Sup., §§ 113-104, 113-84, 113-109.	§ 2146. Rep., 1931, c. 236, s. 2.
2123. Sup., §§ 113-104, 113-109.	§ *2202(19). P. Inv.
2124. Sup., § 113-104.	§ 2255-2276. Rep., 1921, c. 186, s. 22.

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2304(h)-2304(l). Rep., 1933, c. 224.	§ 2621(n). Sup., §§ 20-72, 20-74.
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2438 (§ 44-7). Rep., 1943, c. 543.	§ 2621(p). Sup., §§ 20-110, 20-111.
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2492(62). Obs.	§ 2621(u). Sup., §§ 20-55, 20-102, 20-104.
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2500(f). Rep., 1933, c. 12.	§ 2621(x). Sup., § 20-97.
2500(g). Sup., §§ 51-9 to 51-14.	§ 2621(y). Sup., § 20-112.
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2611. Sup., §§ 20-83, 20-86.	§ 2621(16). Sup., §§ 20-72 et seq.
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381	427	446	489	509	549
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568	608	625	673	688	731
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724	764	787	827	849	862
725	765	788	828	850	863
726	767	789	829	851	864
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738	778	800	840	863	898
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740	781	802	842	865	900
741	780	803	626	866	901
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743	783	805	628	867	902
744	784	806	843	868	904
745	785	807	844	869	903
746	786	808	845	870	905
747	787	809	846	871	906
748	788	810	847	872	907
749	789	811	848	873	908
750	790	812	849	874	909
751	791	813	850	875	910
752	792	814	851	876	911
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754	794	816	853	878	914
755	795	817	854	879	914
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759	799	821	858	884	919
760	800	822	866	885	920
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762	802	824	868	887	922
763	803	825	894	888	923
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766	806	828	871	891	930
767	807	829	872	892	931
768	808	830	873	893	931
769	809	831	874	894	932
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907	943	964a	1013	1024	3365
908	944	965	1010	1026	3338
909	945	966	1011	1027	3356
910	946	967	1609	1028	3352
911	948	968	1610	1029	3341
912	949	969	1613	1030	3336
913	950	970	1615	1031	2578
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917	955	974	987	1035	2581
918	956	975	989	1036	994
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920	958	978	990	1038	2580
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932	970	992	3296	1052	1021
933	971	993	3297	1053	1022
934	972	994	3298	1054	1023
935	974	995	3299	1055	1024
936	975	996	3302	1056	1025
937	976	997	3305	1057	1026
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	979	1000	3306	1060	1029
	980	1001	3322	1061	1030
940	981	1002	3323	1062	1031
941	982	1003	3324	1063	1032
942	983	1004	3325	1064	1060
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947	2342	1008a	3337	1069	1093
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955	1000	1015a	3344	1079	1101
956	1001	1016	3348	1080	1102
957	1002	1017	3336	1081	1103
958	1003		3349	1082	1083

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1123	7885	1183	1173	1243	1137
1124	7883	1184	1173	1244	1150
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1125a	7889	1186	1174	1246	1188
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1655	1822	1717	7565	1778	2162
1656	1823	1718	7567	1779	2163
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1802	2183	1865	2097	1926	1643
1803	2184	1866	2104	1927	1644
1804	2185	1867	2090	1928	1645
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1806	2187		2096	1930	1621
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1808	2189	1870	2096	1932	1623
1809	2190	1871	2094	1933	1624
1810	2197	1872	2092	1934	1625
1811	2198	1873	2095	1935	1647
1812	2199	1874	2093	1936	1648
1813	2200	1875	2101	1937	1649
1814	2201	1876	2103	1938	1650
1815	2202	1877	2139	1939	1012
1816	2195	1878	2139	1940	1651
1817	2196	1879	2139	1941	1652
1818	2196	1880	2139	1942	1653
1819	2203	1881	2109	1943	1626
1820	2204	1882	2114	1944	1627
1821	2205	1883	2111	1945	1628
1822	2206	1884	2116	1946	1628
1823	2207	1885	2117	1947	1628
1824	2208	1886	2118	1948	1629
1825	2209	1887	2119	1949	1630
1826	2210	1888	2120	1950	2305
1827	2211	1889	2121	1951	2306
1828	2212	1890	2285	1952	2307
1829	2213	1891	2286		2998
1830	2215	1892	2284	1953	2308
1831	2216	1893	2287	1954	2309
1832	2217	1894	2289	1955	2311
1833	2214	1895	2290	1956	2310
1834	2218	1896	2291	1957	2312
1835	2219	1897	2292	1958	2313
1836	2220	1898	2293	1959	2314
1837	2221	1899	2295		2315
1838	2222	1900	2296	1960	2316
1839	2223	1901	2297	1961	2317
1840	2224	1902	2298	1962	2318
1841	2225	1903	2299	1963	2319
1842	2226	1904	2300	1964	2331
1843	2231	1905	2301	1965	2332
1844	2232	1906	2302	1966	2324
1845	2233	1907	2303	1967	2321
1846	2234	1908	2304	1968	2322
1847	2235	1909	2249	1969	2333
1848	2236	1910	2250	1970	2335
1849	2237	1911	2251	1971	2336
1850	2238	1912	2252	1972	2337
1851	2239	1913	2254	1973	2338
1852	2240	1914	2253	1974	2339
1853	2241	1915	1632	1975	2340
1854	2242	1916	1633	1976	2320
1855	2243	1917	1634	1977	2323
1856	2243	1918	1635	1978	2327
1857	2244	1918a	1631	1979	2328
1858	2245	1919	1636	1980	2329
1859	2246	1920	1637	1981	2330
1860	2247	1921	1638	1982	2341

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1983	2343	2043	2449	2125	2538
1984	2355	2044	2450	2126	2539
1985	2350	2045	2451	2127	2540
1986	2345	2046	2452	2128	2541
1987	2346	2047	2453	2129	2542
1988	2347	2048	2454	2130	2543
1989	2349	2049	2455	2131	2544
1990	2348	2050	2457	2132	2545
1991	2351	2051	2458	2133	2546
1992	2353	2052	2480	2134	2547
1993	2356	2053	2481	2135	2548
1994	2357	2054	2488	2136	2649
1995	2358		2489	2137	2550
1996	2359	2055	2490	2138	2551
1997	2360	2056	2491	2139	2552
1998	2361	2057	2492	2140	2553
1999	2363	2060	3408	2141	2555
2000	2364	2080	3369	2142	2556
2001	2365	2081	2493	2143	2557
	2366	2081a	2493	2144	2557
2002	2367	2082	2494	2145	2558
2003	2368	2083	2495	2146	2970
2004	2369	2084	2496	2147	2971
2005	2370	2085	2497		2972
2006	2371	2086	2498		2975
2007	2372	2087	2499	2148	2973
2008	2373	2088	2500	2149	2974
2009	2374	2089	2502		2975
2010	2375	2090	2503	2150	2974
2011	2376	2091	2504	2151	2982
2012	2429	2092	2505	2152	2983
2013	2430	2093	2506	2153	2984
2014	2431	2094	2507	2154	2986
2015	2432	2095	2508	2155	2987
2016	2433	2096	2509	2156	2985
2016	2434	2097	2510	2157	2988
2017	2435	2098	2511	2158	2989
2018	2444	2099	2512	2159	2990
2019	2437	2100	2514	2160	2991
2020	2438	2101	2517	2161	2992
2021	2439	2102	2519	2162	2993
	2440	2103	2520	2163	2994
2022	2441	2104	2521	2164	2995
2023	2442	2105	2518	2165	2996
2024	2467	2106	2517	2166	2997
2025	2468	2107	2515	2167	2999
2026	2469	2108	2516	2168	3000
2027	2474	2109	2522	2169	3001
2028	2470	2110	2523	2170	3002
2029	2477	2111	2524	2171	3003
2030	2478	2112	2525	2172	3004
2031	2475	2113	2526	2173	3005
2032	2476	2114	2527	2174	3006
2033	2479	2115	2528	2175	3007
2034	2472	2116	2529	2176	3008
2035	2471	2117	2530	2177	3009
2036	2473	2118	3292	2178	3010
2037	2461	2119	2531	2179	3011
2038	2462	2120	2532	2180	3012
2039	2463	2121	2533	2181	3013
2040	2446	2122	2535	2182	3014
2041	2447	2123	2536	2183	3015
2042	2448	2124	2537	2184	3016

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2186	3018	2249	3081	2313	3145
2187	3019	2250	3082	2314	3146
2188	3020	2251	3083	2315	3147
2189	3021	2252	3084	2316	3148
2190	3022	2253	3085	2317	3149
2191	3023	2254	3086	2318	3150
2192	3024	2255	3087	2319	3151
2193	3025	2256	3088	2320	3152
2194	3026	2257	3089	2321	3153
2195	3027	2258	3090	2322	3154
2196	3028	2259	3091	2323	3155
2197	3029	2260	3092	2324	3156
2198	3030	2261	3093	2325	3157
2199	3031	2262	3094	2326	3158
2200	3032	2263	3095	2327	3159
2201	3033	2264	3096	2328	3160
2202	3034	2265	3097	2329	3161
2203	3035	2266	3098	2330	3162
2204	3036	2267	3099	2331	3163
2205	3037	2268	3100	2332	3164
2206	3038	2269	3101	2333	3165
2207	3039	2270	3102	2334	3166
2208	3040	2271	3103	2335	3167
2209	3041	2272	3104	2336	3168
2210	3042	2273	3105	2337	3169
2211	3043	2274	3106	2338	3170
2212	3044	2275	3107	2339	3171
2213	3045	2276	3108	2340	2976
2214	3046	2277	3109	2341	2998
2215	3047	2278	3110	2342	2977
2216	3048	2279	3111	2343	2978
2217	3049	2280	3112	2344	2979
2218	3050	2281	3113	2345	2981
2219	3051	2282	3114	2346	2983
2220	3052	2283	3115	2346	2986
2221	3053	2284	3116	2347	3172
2222	3054	2285	3117	2348	3173
2223	3055	2286	3118	2349	3174
2224	3056	2287	3119	2350	3175
2225	3057	2288	3120	2351	3176
2226	3058	2289	3121	2351a	3178
2227	3059	2290	3122	2352	3179
2228	3060	2291	3123	2353	3188
2229	3061	2292	3124	2354	3189
2230	3062	2293	3125	2355	3190
2231	3063	2294	3126	2356	3191
2232	3064	2295	3127	2357	3193
2233	3065	2296	3128	2358	3194
2234	3066	2297	3129	2359	3195
2235	3067	2298	3130	2360	3199
2236	3068	2299	3131	2361	1386
2237	3069	2300	3132		3197
2238	3070	2301	3133	2362	3196
2239	3071	2302	3134	2363	3198
2240	3072	2303	3135	2364	3200
2241	3073	2304	3136	2365	3201
2242	3074	2305	3137	2366	3202
2243	3075	2306	3138	2367	3203
2244	3076	2307	3139	2368	3204
2245	3077	2309	3141		3205
2246	3078	2310	3142	2369	1957
2247	3079	2311	3143	2370	1958

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2383	1920	2449	2076	2512	3233
	1947	2450	1977		3241
2384	1940	2451	1984	2513	3242
2385	1926	2452	2067		3243
2386	1934	2453	2010	2514	3240
2387	1936	2454	2008	2515	3244
2388	1938	2455	2020	2516	3245
2389	1937	2457	1974	2517	3226
2390	1933	2459	1887	2518	3238
2391	1925		1891	2519	3255
	1926	2460	1964		3256
	1927	2462	1975	2520	3257
	1952	2463	1976	2521	3258
2392	1943	2464	1976	2522	3259
2394	1941	2465	1972	2523	3260
2395	1935	2466	1897	2524	3261
2396	1921		1898	2525	3262
2397	1926	2467	1965	2526	3263
2399	1924	2468	1997	2527	3264
2400	1939	2469	2001	2528	3265
2401	1945	2470	2000	2529	3266
2402	1946		2022	2530	3267
2408	1915	2471	1993	2531	3268
2409	1913	2472	2023	2532	3269
	1914	2474	2009	2533	3270
2411	1917	2476	2044	2534	3271
2412	1918	2478	1971	2535	3272
2413	1925	2481	2033	2536	3273
2415	1928	2483	1998	2537	3274
	1929	2484	2053	2538	3275
2416	1931	2485	3213	2539	3276
2417	1922	2486	3214	2540	3279
2417	1923	2487	3215	2541	3280
2418	1921		3219	2542	3281
2420	1942	2488	3216	2543	3282
2421	1932	2489	3217	2544	3283
2423	1948	2490	3218	2545	3284
	1951	2491	3222		3287
2424	1986		3225	2546	3285
2425	2061	2492	3220	2547	3286
2426	1952	2493	3229	2548	3420
2427	2012	2494	3228	2549	3421
2428	2011		3230	2550	3422
2429	2013	2495	3231	2551	3423
2430	2049	2496	3223	2552	3428
2431	2050	2497	3224		3462
2432	2051	2498	3221	2553	3429
2433	1988	2499	3246	2554	3424
2434	2037	2500	3247	2555	3425
2435	2036	2501	3248	2556	3426
2436	2040		3249	2557	3427
2437	2042		3250	2558	3431
2438	1967	2502	3251	2559	3432
2439	1981	2503	3252	2560	3433
2440	1979	2504	3253	2561	3434
2441	2014	2505	3254	2562	3435
2442	2071		3256	2563	3458
2443	2003	2506	3227	2564	3456
2444	1969	2507	3237	2565	3463
2445	2017	2508	3234	2566	3412

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	3445	2622d	3540	2678	388
	3461	2622e	3536	2679	389
2568	3448	2622f	3538	2680	390
2569	3449	2623	3510	2681	3750
2570	3451	2624	3523	2682	3779
2571	3452	2625	3504	2683	3761
2572	3453	2626	3504	2684	3762
2573	3455	2626a	4457	2685	3763
2574	3459	2627	3503	2686	3836
2575	1706	2628	3509	2687	3838
	1707	2629	3507	2688	3838
	3444	2629a	3511	2689	3838
2575a	1708	2630	3513	2690	3764
2576	1712	2631	3515	2691	3820
2577	1713	2632	3516	2692	3765
2578	1714	2633	3518	2693	3766
2579	1715	2635	3525	2694	3837
2580	1716	2636	3526	2695	3785
2581	1717	2637	3532	2696	3771
2582	1718	2638	3533	2697	3790
2583	1719	2639	3534		3795
2584	1720	2640	3447	2698	3798
2585	1721	2641	3521	2699	3799
2586	1722	2642	3514	2700	3797
2587	1723	2643	3514	2701	3800
2588	1724	2644	3514	2702	3802
2589	1725	2645	3482	2703	3796
2590	1726	2646	3465	2704	3803
2591	1727	2646a	5091	2705	3801
2592	1728	2647	3415	2706	3819
2593	1729	2648	3430	2707	3821
2594	1730	2649	3550	2708	3822
2595	1731	2650	3543	2709	3823
2596	1732	2651	3546		3824
2597	1733	2652	3544	2710	3825
2598	3413	2653	3548	2711	3786
2599	3471	2654	3549	2712	3752
2600	3472	2655	3551	2713	3755
2601	3454	2656	3552	2714	3754
2602	3473	2657	3554	2715	3753
2603	3474	2658	3553	2716	3757
2604	3414	2659	3555	2717	3758
2604a	3483	2660	3556	2718	3809
2605	3484	2661	3557	2719	3817
2606	3484	2662	3558	2720	3810
2607	3485	2663	3559	2721	3808
2608	3486	2664	3560	2722	3781
2609	3487	2665	3561	2723	3783
2610	3488	2666	3562	2725	3806
2611	3475	2667	3563	2726	3807
2612	3476	2668	3564	2727	3792
2613	3480	2669	3566	2728	3818
2614	3481	2670	3568	2729	3852
2615	3541		3569	2730	3853
2616	3542	2671	3568	2731	3854
2617	3446		3569	2732	3855
2619	3494	2672	3570	2733	3866
2620	3495	2673	3571	2734	3856
2621	3496	2674	3572	2735	3848
2622	3497	2674a	6536	2735a	3850
2622a	3536	2675	385	2735b	3850
2622b	3537	2676	386	2736	3858

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2738	3860		3901	2859	7982
2739	3868	2798	3892	2860	7983
2740	3857	2799	3919	2861	7984
2741	3863	2800	3178	2862	7985
2742	3864	2801	3920	2863	7986
2743	3865	2802	3921	2864	7987
2744	3867	2803	3893	2865	7989
2745	3869	2804	3849	2866	7990
2746	3870	2805	3851	2867	7992
2747	3871	2806	3880	2868	7993
2748	3876	2807	5005	2869	7998
2749	3872	2808	3925	2870	7996
2750	3877	2809	3926	2871	7999
2753	3873	2810	3927	2872	8000
2754	3875	2811	3928	2873	8001
2755	252		3929	2874	8001
2756	3874	2812	3931	2875	8002
2757	6120	2813	3932	2876	7869
2758	6540	2814	3933	2877	7869
2759	3879	2815	3934	2878	7870
2760	5922	2816	3935	2879	8003
2761	3878	2817	3936	2880	8004
2762	3881	2818	3937	2881	8005
2763	3882	2819	3938	2882	7996
2764	3883	2820	3939	2883	8009
2765	3884	2821	3940	2884	8006
2766	3885	2822	4394	2885	8007
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2768	3891	2824	3944	2887	8010
2769	3886	2825	3945	2888	8012
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2771	3889	2828	3946	2890	8014
2771a	3887	2829	3947	2891	8015
2772	3847	2830	3948	2892	8017
2773	3903	2831	3949	2893	8018
	3904	2832	3950	2894	8019
2774	947	2833	3951	2895	8020
2775	3905	2834	3952	2896	8021
2776	3906	2835	3953	2897	8022
	3907	2836	3955	2898	8023
2777	3908	2837	3958	2899	8024
	3909	2838	3959	2900	8025
2778	3910	2839	2980	2901	8026
2779	3916		3960	2902	8027
2780	3914	2840	3961	2903	8028
2781	3915	2841	3962	2904	8029
2782	3911	2842	3963	2905	8030
2783	3913	2843	3964	2906	8031
2784	3917	2844	3965	2907	8032
2785	3918	2845	3966	2908	8033
2786	3912	2846	3967	2909	8034
2787	3922	2847	3969	2910	8035
2788	3923	2848	3968	2911	8036
2789	1233	2849	7972	2912	8037
2790	3894	2850	7973	2913	8038
2791	3895	2851	7974	2914	8039
2792	3896	2852	7994	2915	2622
2793	3897	2853	7977	2916	2623
2794	3898	2854	7976	2917	2624
2795	3899	2855	7979		2626
2796	3924	2856	7991	2918	2625
2797	3902	2857	7980	2919	2626

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2922	2627	2982	2741		5121
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2924	2677	2984	2745	3034	4063
2924a	2679	2985	2746	3035	5122
2925	2630	2986	2748	3036	4073
2926	2641	2987	2749	3037	4073
2927	2642	2988	2750	3038	4073
2928	2674	2989	2751	3039	4074
2929	2676	2990	2752	3040	4074
2930	2675	2991	2753	3041	4075
2931	2631	2992	2754	3042	5124
2932	2632	2993	2755	3043	5125
2933	2633	2994	2756	3044	5126
2934	2634	2995	2757	3045	7121
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2936	2637	2997	2759	3049	7123
2937	2636	2998	2760	3050	7122
2938	2638	2999	2761	3051	7125
2939	2639	3000	2762	3052	7127
2940	2640	3001	2763	3053	7126
2941	2646	3002	2764	3057	7056
2942	2647	3003	2765		7057
2943	2648	3004	2766		7058
2944	2649	3005	2767		7059
2945	2650	3006	2768	3058	7116
2946	2651	3007	2769	3060	7119
2947	2652	3008	2770	3061	7523
2948	2653	3009	2771	3062	7522
2949	2654	3010	2773	3063	8061
2950	2655	3011	2776	3064	8063
2951	2656	3012	3971	3065	8062
2952	2657	3013	3972	3066	8060
2953	2658	3014	3973	3067	8064
2954	2662	3015	3974	3068	8065
2955	2659	3016	3975	3069	8066
2956	2660	3017	3976	3070	8067
2957	2668	3018	3977	3071	8068
2958	2661	3019	3978	3072	8069
2959	2663	3020	3979		8070
2960	2664	3021	3980		8073
2961	2665	3022	3981	3073	8071
2962	2666	3023	3985		8073
2963	2667	3024	3986	3074	8072
2964	2669	3025	3987		8073
2965	2670	3026	3988	3075	8074
2966	2671	3027	3989	3076	8076
2967	2672	3027a	3994		8077
2968	2678	3027b	3995	3077	8078
2969	2680	3027c	3996	3078	8079
2970	2681		3997	3079	8080
2971	2683	3027d	3998	3080	4096
2972	2684	3027e	3999	3081	4097
2973	2686	3027f	4000	3082	4098
2974	2691	3027g	4001	3083	4099
2975	2692	3027h	4002	3084	4100
2976	2682	3027i	4003	3085	4101
2977	2693	3028	4017	3086	4102
2978	2688	3029	5118	3087	4104
2979	2689	3030	5119	3088	4105
2980	2690	3031	5120	3089	4106
				3090	4107

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3092	4109	3153	4519	3216	4584
3093	4110	3154	4520	3217	4585
3094	4111	3155	4521	3218	4586
3095	4112	3156	4522	3219	4587
3096	4113	3157	4523	3220	4588
3097	4114	3158	4524	3221	4589
3098	4115	3159	4525	3222	4590
3099	4116	3160	4526	3223	4591
3100	4117	3161	4527	3224	4592
3101	4118	3162	4528	3225	4593
3102	4119	3163	4529	3226	4594
3103	4120	3164	4530	3227	4595
3104	4121	3165	4531	3228	4580
3105	4122	3166	4532	3229	4596
3106	4123	3167	4533	3230	4597
3107	4124	3168	4540	3231	4598
3108	4125	3169	4534	3232	4599
3109	4126	3170	4535	3233	4600
3110	4127	3171	4536	3234	4601
3111	4128	3172	4537	3235	4602
3112	4129	3173	4539	3236	4603
3113	4131	3174	4538	3237	4604
3114	4132	3175	4541	3238	4605
3115	4133	3176	4542	3239	4606
3116	4134	3177	4543	3240	4607
3117	4135	3178	4544	3241	4608
3118	4136	3179	4545	3242	4611
3119	4137	3180	4546	3243	4612
3120	4138	3181	4547	3244	4613
3121	4160	3182	4548	3245	4614
3122	4139	3183	4549	3246	4615
3123	4140	3184	4550	3247	4615
3124	4141	3185	4551	3248	4616
3125	4142	3186	4552	3248a	3411
3126	4143	3187	4553	3249	4617
3127	4144	3188	4554	3250	4618
3128	4146	3189	4556	3251	4619
3129	4147	3190	4557	3252	4620
3130	4148	3191	4558	3253	4621
3131	4149	3192	4559	3253a	6683
3132	4152	3193	4560	3254	4623
3133	4153	3194	4561	3255	4625
3134	4154	3195	4562	3255a	4610
3134a	4155	3196	4563	3256	4626
3135	4158	3197	4564	3257	4627
3136	4159	3198	4565	3258	4628
3137	4161	3199	4566	3259	4629
3138	4162	3200	4570	3260	4630
3139	4163	3201	4571	3261	4631
3140	4164	3202	4567	3262	4632
3141	4165	3203	4568	3263	4633
3142	4166	3204	4569	3264	4634
3143	4167	3205	4572	3265	4635
3144	4168	3206	4573	3266	4637
3145	4169	3207	4577	3267	4638
3146	4170	3208	4579	3268	4639
3146a	51	3209	4574	3269	4640
3147	4512	3210	4575	3270	4641
3148	4513	3211	4576	3271	4642
3149	4514	3212	4578	3272	4644
3150	4515	3213	4581	3272a	4636
3151	4517	3214	4582	3273	4645

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3274	4647	3337	4241	3399	4185
3275	4648	3338	4242	3400	4197
3276	4649	3339	4313	3401	4186
3277	4650	3340	4245	3402	4198
3278	4651	3341	4244	3403	4272
3279	4652	3342	4248	3404	4273
3280	4653	3343	4247	3405	4275
3281	4654	3344	4239	3406	4268
3282	4655	3345	4240	3407	4269
3283	4656	3346	4309	3408	4270
3284	4185	3347	4311	3409	4271
3285	4185	3348	4209	3410	4276
3286	4186	3349	4336	3411	1862
3287	4175	3350	4343	3412	1840
3288	4189	3351	4337	3413	1831
	5974	3352	4338	3414	1973
3289	4177	3353	4353	3415	1973
3290	4176	3353a	4347	3416	1996
3291	4171	3354	4339	3417	1968
3292	4172	3355	4447	3418	2078
3293	4173	3356	4448	3419	4293
3294	4688	3357	4450	3420	4299
3295	4487	3358	4223	3421	4298
3296	4489	3359	4224	3422	4181
3297	4490	3360	4225	3423	4182
3298	4488	3361	4342	3424	4296
3299	4483	3365	4469	3425	4295
3300	4484	3366	4480	3426	4297
3301	4485	3367	4481	3427	4294
3302	4486	3368	4444	3428	4291
3303	1670	3369	4340	3428a	4446
3304	1671	3370	4341	3429	4289
3305	1672	3371	2501	3430	4421
3306	3954	3372	2499	3431	4281
3307	4279	3373	191	3432	4277
3308	4280	3374	4470	3433	4278
3309	1852	3375	5278	3434	4282
3310	1853	3376	5282	3434a	4284
3311	1854	3377	5291	3435	4287
3312	1863	3378	5382	3436	4288
3313	4334	3379	5290	3437	4178
3314	4494	3380	6925	3438	4179
3315	4493	3381	2554	3439	4180
3316	4265	3382	5283	3442	4465
3317	4495	3382a	7378	3444	4752
3318	4496		7379	3445	4766
3319	1849	3383	7371	3446	7072
3321	1856	3384	4185	3447	4766
3322	1857	3385	4185	3448	7151
3323	4356	3386	4186		7155
3324	4387	3387	4185	3449	7155
3325	4401	3388	4189	3450	7234
3326	4402		5974	3451	7241
3327	5199	3389	4188	3452	4765
3328	5202	3390	4190	3453	7066
3329	5191	3391	4193	3454	7159
3330	4233	3392	4191	3455	7164
3331	4232	3393	4194	3456	7128
3332	4234	3394	4192	3457	7124
3333	4235	3395	4186	3458	7526
3334	4236	3396	4185	3459	2122
3335	4238	3397	4195	3460	2134
3336	4246	3398	4196	3462	2125

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3464	2105		3399	3596	4409
3465	2141		3407	3597	2228
3466	2102	3534	3371	3598	4395
3467	2126	3536	6881	3599	3567
3468	2133	3537	6882	3600	3561
3469	2098	3538	6894	3601	886
3470	2108	3539	6895	3602	2340
3471	2107	3540	6885	3603	1354
3472	2130	3541	6883	3604	4396
3473	2137	3542	6884	3605	4386
3474	2138	3543	4304	3606	7691
3475	2139	3544	4333	3607	2742
3476	2139	3545	6998	3608	2747
3477	2135	3546	6999	3609	2685
3478	2140	3547	6966	3610	2743
3479	2124	3548	8095	3611	4366
3480	2127	3549	6964	3612	4367
3481	2128	3550	6984	3613	2456
3482	6309	3551	6983	3614	1651
3483	6426	3552	6965	3615	4364
3484	6305	3553	6982	3616	4365
3485	6306	3554	6963	3617	1617
3486	6304	3555	4471	3618	4226
3487	4369	3556	4472	3619	4227
	6307	3557	4473	3620	4215
3488	6308	3558	4474	3621	4213
3489	4274	3559	7377	3622	4216
3490	6310	3560	6981	3623	4228
3491	6432	3561	7376	3624	4207
3492	6293	3562	8097	3625	4208
3493	4368	3563	8098	3626	4211
	6281	3564	8099	3627	4210
3494	6286	3565	4383	3628	4411
3495	6423	3566	5013	3629	4203
3496	6352	3567	6790	3630	4222
3497	6463	3568	4372	3631	4200
3498	4254	3569	4373	3632	4201
3499	4253	3570	4374	3633	4202
3500	4249	3571	4382	3634	4221
3501	4263	3572	4388	3635	4229
3502	4258	3573	1301	3636	4212
	4510	3574	1319	3637	4204
3503	4257	3575	4389	3638	4205
3504	4264	3576	4385	3639	4206
3505	4260	3577	4393	3640	4230
3506	4251	3578	4399	3641	198
3507	4250	3579	4398	3642	6632
3508	4255	3580	5072		6647
3509	4261	3581	2227	3643	6648
3510	4256	3582	2229	3644	6782
3511	4259	3583	2230	3645	6622
3512	4451	3584	749	3646	6623
3513	4452	3585	750	3647	6624
3517	4508	3586	750	3647a	6683
3518a	3410	3587	3942	3648	6665
3522	4453	3588	1234	3649	6668
3524	4456	3589	1469	3650	6669
3525	4456	3590	1302	3651	6653
3526	3371	3591	6187	3652	6664
	3400	3592	4384	3653	6662
3527a	3370	3593	5165	3654	6670
3528	4454	3594	7768	3655	6671

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3656	6738	3715	4430	3765a	4237
3657	4404	3716	4431	3766	4267
3658	4403	3717	4432	3767	3413
3659	4405	3718	4433	3768	3519
3660	4408	3719	4434	3769	4422
3660a	7220	3720	4435	3770	3756
3661	4407	3721	4435	3771	4318
3662	4406	3722	4436	3772	3796
3663	2443	3723	4437	3773	3796
3664	2362	3724	4688	3774	3804
3665	2362		4897	3775	3797
3666	4323	3725	4427	3776	4354
3667	4325	3726	4428	3777	3794
3668	4335	3727	4429	3778	3793
	4958	3728	4499	3779	3811
3669	4952	3729	4442	3780	3805
3670	4300	3730	4479	3781	3787
3671	4324	3731	4348	3782	3782
3672	4322	3731a	4349	3783	3784
3673	4317	3732	5166	3784	3789
3674	4319	3733	4458	3785	3760
3675	3528	3734	4511	3786	8005
3676	4331	3735	4461	3788	4397
3677	4301	3736	4462	3790	8016
3678	4315	3737	4463	3791	2457
3679	2534	3738	4464	3792	7885
3680	4320	3740	4459	3794	4423
3681	4321	3740a	4659	3795	4443
3682	2354	3740b	4660	3796	4426
3683	4314	3741	7582	3797	6909
3684	8075	3742	4303	3798	2772
3685	4316	3743	8081	3799	2775
3686	2352	3744	7604	3800	3541
3687	4306	3745	7045	3801	3542
3688	4305	3746	4302	3802	2774
3689	1620	3747	3476	3803	5099
3689a	6537	3748	3508	3804	4438
3690	1205	3749	3416	3805	4439
3691	1091	3749a	3484	3806a	6683
3692	4381	3750	3419	3806b	6683
3693	6552	3751	3418	3807	4731
3694	6171	3752	3505	3808	4734
3695	6164	3752a	3511	3809	4468
3696	4380	3752b	3512	3811	5097
3697	4375	3753	3454	3812	5083
3698	4376	3754	4417	3813	4467
3699	4377	3755	4418	3814	4709
3700	4378	3756	3478	3815	5086
3701	4379	3757	3504	3816	5085
3702	4174	3757a	4457	3817	4425
3703	4416	3757b	4350	3818	4696
3704	4413	3757c	3536	3819	4699
3705	4355	3757d	3537	3820	4703
3706	4415	3758	4420	3821	4691
3707	4412	3759	4332		4768
3708	4410	3760	4400	3822	4703
3709	4503	3761	3506	3822a	4900
3710	4504	3761a	3491	3823	2147
3711	4183	3761b	3492	3824	2147
3712	4184	3762	3520	3825	2148
3712a	4509	3763	4419	3826	2149
3713	4900	3764	4466	3827	4736
3714	4510	3765	4266	3828	5088

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3829a	5091	3878	5171	3942	4686
3830	5089	3879	5172	3943	4687
3831	5123	3880	5173	3944	4688
3832	4440	3881	5169	3945	4690
3832a	4012	3882	5174	3946	4692
3832b	4013	3883	5175	3947	4693
3832c	4013	3884	5180	3948	4694
3832d	4013	3885	5181	3949	4695
3832e	4013	3886	5179	3950	4696
3832f	4014	3887	5176	3951	4697
3832g	4015	3888	5178	3952	4699
3832h	4016	3889	5177	3953	4700
3833	4390	3890	5182	3954	4701
3834	5719	3891	5183	3955	4702
3835	4391	3892	5184	3956	4703
3836	5746	3893	5185	3957	4704
3836c	5766	3894	5187		4705
3836d	5770	3895	5188	3958	4706
3838	4414	3896	5189	3959	4707
3839	5456	3897	5190	3960	4708
3840	5419	3898	5192	3961	4713
3841	1970	3899	5193	3961a	4714
3842	3956	3900	5194	3970a	4759
3844	3480	3901	5199	3971	4761
3845	4330	3902	5195	3972	4764
3846	4498	3903	5196	3973	4750
3847	4326	3904	5197	3974	4765
3848	4497	3905	5200	3975	4753
3849	4329	3906	5198		4754
3849a	4328	3907	5201		4755
3850	3983	3908	5203		4756
3851	3984	3909	7309		4757
3852	3982		7310	3976	4750
3852a	3996	3910	7311	3977	4761
3852b	3998	3911	7312	3977a	4762
3852c	3999	3913	5004	3977b	4767
3852d	4000	3914	5005	3980	4897
3852e	4001		5006	3981	4898
	4003	3915	5006	3982	4899
3853	3991	3916	5007	3982a	4926
3854	3990	3917	5008		4927
3855	3992	3918	5009		4929
3856	3993	3919	5010		4930
3857	7124	3920	5011	3982b	4928
3858	7125	3922	4033	3982c	4929
3859	7123	3923	4034	3983	5261
3860	7127	3924	4035	3984	5262
3863	4936	3925	6932	3985	5263
3864	4937	3926	6933	3985a	5264
3865	4938	3928	6934	3986	5265
3866	4939	3930	4666	3987	5266
3867	4940	3931	4667	3988	5267
3868	4941	3932	4668	3989	5268
3869	4941	3933	4672	3990	5269
	4942	3934	4673	3991	5270
3870	4943	3935	4669	3992	5271
3871	4944	3936	4670	3993	5272
3872	4949	3937	4671	3994	5273
3873	4945	3937a	4674	3995	5274
3874	4946	3938	4675	3996	5295
3875	4947	3939	4676	3997	5296
3876	4948	3940	4677	3998	5297
3877	5170	3941	4684	3999	5298

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4001	5300	4065	5695		5404
4001a	5310		5696		5409
	5311	4066	5697	4120	5406
4002	5302	4067	5699	4121	5402
4003	5303	4068	5703		5416
4004	5304	4069	5704		5417
4005	5305	4070	5705	4122	5412
4006	5306	4071	5706	4123	5412
4007	5307	4072	5707	4124	5415
4008	5301	4073	5708		5670
4009	5308		5709	4125	5412
4010	5309	4074	5710		5417
4011	5290	4075	5711		5420
4012	5291	4076	5712	4126	5414
4013	5292	4077	5713	4127	5412
4014	5293	4078	5714		5418
4015	5294	4079	5715		5420
4016	5275	4080	5716		5421
4017	5276	4081	5717	4128	5418
4018	5277	4082	5718	4129	5469
4025	5279	4083	5720		5470
4026	5280	4084	5721		5471
4027	5281	4085	5537		5472
4028	5260	4086	5538		5473
4029	5383	4087	5541		5474
4030	5384	4088	5427		5475
4031	5386		5459		5476
4032	5387	4089	5391	4130	5416
4033	5385		5392		5423
4034	5388	4090	5392	4131	5416
	5390	4091	5392	4132	5422
4035	5389	4092	5392	4133	5410
4036	7605	4093	5480	4134	5411
4037	7606	4108	5497	4135	5424
4038	7607	4109	5498		5425
4039	7608	4110	5499		5428
4040	7609	4111	5500		5430
4041	7610	4113	5511		5433
4042	7611		5512	4136	5429
4043	7612		5513	4137	5431
4044	7613		5514	4138	5426
4045	7614		5515	4139	5424
4046	7623		5516		5437
4047	7617		5517		5438
4048	7618		5518	4140	5435
4049	7621	4114	5519	4141	5432
4050	7622		5520		5434
4051	7619		5521		5436
4052	7620		5522		5441
4053	5671	4115	5526	4142	5439
4054	5673		5527	4143	5442
4055	5674		5528		5443
4056	5675		5529	4144	5440
4057	5691		5530	4145	5457
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4059	5692		5532		5460
4060	5698		5533		5461
4061	5700		5534		5462
4062	5701		5535		5464
	5702		5536	4146	5463
4063	5693	4118	5501	4147	5464

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4148	5468	4173	5620	4255	5836
	5740	4174	5621	4256	5837
	5741	4175	5622	4257	5838
	5742	4176	5623	4259	5781
	5743	4177	5624	4260	5782
	5744	4178	5626	4261	5782
	5745		5628	4262	5783
4149	5466	4179	5627	4263	5788
	5467	4180	5850	4264	5796
4150	5466	4181	5851	4265	5797
4151	5610	4182	5852	4266	5798
	5611		5853	4267	5795
	5612	4185	5854	4268	5789
	5613	4187	5872	4269	5792
	5614	4188	5873	4270	5790
	5615	4189	5874	4271	5791
	5616	4190	5875	4272	5791
	5617	4190a	5769	4273	5794
4152	5444		5770	4274	5799
	5445		5771	4275	5800
	5447		5772	4276	5793
4153	5446	4191	5876	4277	5801
4154	5448	4192	5877	4278	5802
4155	5450	4193	5878	4279	5803
4156	5450	4194	5879	4280	5804
4157	5449	4195	5880	4281	5805
4158	5448	4196	5881	4282	5784
	5451		5882	4283	5785
	5452	4197	5883	4284	5786
4159	5454	4198	5884	4285	5787
4160	5453	4199	5885	4287	6785
4161	5661	4201	5886	4288	6786
	5664	4202	5888	4289	6787
4163	5645	4203	5889	4290	6788
	5665	4204	5892	4291	6789
	5668	4205	5893	4291a	1710
4164	5540	4206	5890	4291b	1710
	5667		5891	4291c	1710
	5669	4206a	5765	4292	5913
			5766	4293	5914
4165	5667		5767	4294	5915
4166	5666	4206a	5823	4295	5916
4167l	5863	4217a	5826	4296	1383
4167m	5863	4221	5827		5917
4167n	5864	4222	5828	4297	5918
	5867	4223	5829	4298	5919
4167p	5865	4224	5830	4299	5920
4167q	5866	4225	5831	4300	5921
	5871	4226	5832	4301	5922
4167r	5863	4227	5855	4302	5923
4167s	5868	4229	5856	4303	5924
4167v	5552	4230	5857	4304	5925
4167w	5553	4231	5858	4305	5926
4167x	5554	4232	5859	4306	5927
4167y	5555	4233	5861	4307	5928
4168	5546	4234	5843	4308	5929
	5547	4236	5845	4309	5930
	6257	4237	5848	4310	5931
4169	5548	4239	5847	4311	5932
	5549	4241	5842	4312	5933
4170	5550	4248	5833	4313	5934
4171	5551	4251	5834	4314	5935
4172	5618	4252	5835	4315	5936
	5619	4253			

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4316	5937	4380	5945	4433	6122
4317	5938	4381	5978	4435	7048
4318	5939	4382	6016	4436	7049
4319	5940	4383	6017	4437	7050
4320	5941	4384	6777	4437a	7170
4321	5942	4385	6778		7171
4322	5946	4386	6779	4438	7051
4323	5947	4387	6780	4439	7052
4324	5948	4388	6781	4440	7053
4325	5949	4389	6783	4441	7054
4326	5950	4390	6784	4442	7055
4327	5951	4391	6056	4444	7064
4328	5952	4392	6057		7065
4329	5953	4393	6058		7067
4330	5954	4394	6059	4445	7069
4331	5955	4395	6060	4446	7067
4332	5956	4396	6061	4450	7071
4333	5957	4397	6062	4451	7163
4334	5958	4397a	6063	4454	7076
4335	5959	4397b	6064	4455	7075
4336	5969	4397c	6065	4456	7157
4337	5970	4397d	6066	4458	7251
4338	5971	4397e	6067	4459	7158
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4340	5973		6069	4461	7074
4341	5975	4397g	6070	4462	7073
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4345	5981	4398	6087	4466	6630
4346	5982	4399	6088	4467	6632
4347	5983	4400	6089		6633
4348	5984	4401	6090	4468	6631
4349	5985	4402	6091		6634
4350	5986	4403	6092		6637
4351	5987	4404	6093	4469	6636
4352	5988	4405	6094	4470	6631
4353	5989	4406	6095	4470a	6639
4354	5990	4407	6096	4470b	6677
4355	5991	4408	6097	4471	6650
4356	5992	4409	6098	4472	6651
4357	5993	4410	6099	4473	6652
4358	5994	4412	6100	4474	6653
4359	5995	4413	6101	4475	6654
4360	5996	4414	6102	4476	6655
4361	5997	4415	6103	4477	6656
4362	5998	4416	6104	4477a	6683
4363	5999	4417	6105	4478	6657
4364	6000	4418	6106	4479	6658
4366	6004	4419	6107	4480	6658
4367	6005	4420	6113	4481	6659
4368	6006	4421	6112	4482	6660
4369	6007	4422	6108	4483	6661
4370	6008	4423	6109	4484	6662
4371	6009	4424	6110	4485	6663
4372	6010	4425	6111	4486	6664
4373	6011	4426	6114	4487	6667
4374	6012	4427	6115	4488	6665
4375	6013	4428	6116	4489	6671
4376	5977	4429	6117	4490	6668
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4499	6615	4549	6158	4611	6229
4500	6620	4550	6161	4612	6230
4501	6619	4551	6162	4613	6231
4502	6622	4552	6167	4614	6232
4503	6618	4553	6166	4615	6233
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4505	6621	4556	6203	4617	6236
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4506	7159	4568	6180	4629	6252
4507	7160	4569	6181	4630	6249
4509	7077	4570	6182	4631	6250
4510	7237	4571	6183	4632	6251
4511	7241	4572	6185	4633	6253
4512	7232	4573	6186	4634	6255
4513	7242	4574	6189	4635	6256
4514	7243	4575	6190	4636	5092
4515	7244	4576	6191	4637	5068
4516	7245	4577	6192	4638	5069
4517	7240	4578	6193	4655	5070
4518	7246	4579	6194	4657	5074
4519	7247	4580	6195	4658	5070
4520	7248		6198		5074
4521	7249	4581	6198	4659	5076
4522	7231	4582	6204	4660	5077
4523	7233	4583	6205	4661	5093
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4525	7235	4585	6211	4663	5079
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4531	7224	4591	6208	4669	5068
4532	7225	4592	6218	4671	5071
4533	7226	4593	6209	4672	5073
4534	7236	4594	6212	4673	5075
4536	7239	4595	6213	4674	5096
4537	7238	4596	6214	4675	5096
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4688	6273	4746	6410	4806	6287
4689	6269	4747	6411	4807	6288
4690	6270	4748	6412	4808	6289
4691	6274	4749	6413	4809	6290
4692	6275	4750	6414	4810	6302
4693	6276	4751	6415	4811	6292
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4695	6278	4754	6417	4813	6303
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4698	6280	4757	6420	4815	2738
4699	6282	4758	6434		2740
4700	6283	4759	6436	4816	2739
4701	6295	4760	6437	4817	2740
4702	6296	4761	6438	4818	6074
4703	6297	4762	6439	4819	6075
4704	6294	4763	6424	4820	6076
4705	6297	4764	6428	4821	6077
4706	6298	4765	6429	4822	6421
4707	6301	4766	6430	4823	6078
4708	6279	4767	6431	4824	6079
4709	6313	4768	6432	4825	6449
4710	6314	4769	6425	4826	6451
4711	6315		6426	4827	6450
4712	6316	4770	6422		6451
4713	6361	4771	6464	4828	6452
4714	6317	4772	6464	4829	6453
4715	6318	4773	6455	4830	6454
4716	6319	4773a	6312	4831	6311
4717	6320	4773b	6457	4832	6433
4718	6321	4774	6456	4833	6439
4719	6322	4775	6458	4834	4371
4720	6323	4776	6466	4835	6538
4721	6324	4777	6461	4836	6539
4722	6325	4778	6462	4837	6541
4723	6326	4779	6460	4838	6544
4724	6330	4780	6467	4839	6542
4725	6331	4781	6468		6546
4726	6327	4782	6469	4840	6545
4727	6328	4783	6470	4841	6545
4728	6329	4784	6471	4843	6548
4729	6332	4785	6472	4844	6549
4730	6333	4786	6473	4845	6550
4731	6334	4787	6474	4846	6551
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4735	6338	4791	6357	4932	6898
4736	6339	4792	6360	4933	6899
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4739	6348	4797	6494	4938	6904
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4945	6912	4992	5149	5073	6578
4946	6913	4993	5150	5074	6579
4947	6914	4994	5151	5075	6580
4948	6915	4995	5152	5076	6581
4949	6916	4996	5153	5077	6582
4950	6917	4997	5154	5078	6583
4951	6918	4998	5155	5079	6584
4952	6919	4999	5156	5080	6585
4953	6920	5000	5151	5081	6587
4954	6921	5001	5158	5082	6586
4955	6922	5002	5159	5083	6588
4956	6923	5002a	5158	5084	1428
4957	6924		5160		6589
4957a	6943	5003	5162	5085	6590
4957b	6944	5004	5163	5086	6591
4957c	6945	5005	5168	5087	6592
4957d	6946	5005a	5167	5088	6593
4957e	6947	5006	7025	5089	6594
4957f	6948	5007	7028	5090	6595
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4957j	6951	5010	7031	5093	7296
4957k	6952	5011	7034	5094	7289
4957l	6953	5012	7036	5095	7290
4957m	6954	5013	7039	5096	7292
4957n	6955	5014	7041	5097	7295
4957o	6956	5015	7044	5098	7297
4957p	6957	5015a	7047	5099	7298
4957r	6958	5016	7043	5100	7299
4957s	6959	5017	7029	5101	7300
4958	6960	5018	7030	5102	7301
4959	6961	5019	7404	5103	7303
4960	6962	5020	7401	5105	7307
4961	6978	5021	7403	5106	7767
4962	6979	5022	7410	5107	7768
4963	6980	5023	7402	5108	7771
4964	6967	5024	7409	5109	7769
4965	6968	5025	7405	5110	7770
4966	6969	5026	7406	5111	7772
4967	6970	5027	7407		7774
4968	6971	5028	7408		7776
4969	6974	5029	7411	5112	7787
4970	6975	5030	7412	5113	7783
4971	6976	5031	7417	5115	7784
4972	6977	5032	7414	5116	7782
4973	6987	5033	7413	5117	7785
4974	6988	5034	7423	5118	7788
4975	6989	5035	7415	5120	7780
4976	6990	5036	7416	5121	7789
4978	6991	5037	7418	5122	7781
4979	6992	5038	7419	5123	7790
4980	6993	5039	7421	5124	7791
4981	6994	5040	7422	5125	7791
4982	6996	5041	7424	5127	7795
4983	6997	5042	7425	5128	7793
4984	5141	5043	7426	5129	7794
4985	5143	5044	7427	5132	7796
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5140	7808	5214	7927	5275	7947
	7809	5215	7903	5276	7949
	7810	5217	7909	5277	7950
5141	7811	5218	7910	5278	7951
5143	7813	5219	7913	5279	7952
5144	7814	5220	7915	5280	7953
5145	7815	5221	7916	5281	7954
5146	7816	5222	7917	5282	7955
5147	7817	5223	7901	5283	7956
5148	7818	5224	7929	5284	7957
5149	7819	5225	7911	5285	7958
5150	7820	5226	7912	5286	7959
5151	7820	5227	7914	5287	7960
5152	7821	5228	7918	5288	7961
5153	7822	5229	7908	5288a	7968
5154	7823	5230	7919	5289	7969
5155	7824	5231	7926	5290	7962
5156	7826	5232	7924	5291	7964
5157	7827	5233	7923	5292	7965
5158	7828	5234	7936	5293	7966
5159	7829	5235	7938	5294	7967
5160	7830	5236	7939	5295	7970
5161	7831	5237	7940	5296	7989
5162	7832	5238	7930	5297	7363
5163	7833		7991	5298	7364
5165	7835	5239	7931	5299	7365
5175	7844	5240	7932	5300	7366
5176	7846	5241	7994	5301	7367
	7847		7995	5302	7368
5177	7848	5242	7996	5303	7369
5178	7849	5243	7873	5304	7370
5180	7852	5244	8040	5305	7372
5183	7854	5245	8042	5306	7373
5184	7855	5246	8043	5307	7374
5185	7856	5247	8044	5308	7375
5186	7857	5248	8045	5309	5127
5187	7858	5249	8048	5310	5128
5188	7859	5250	8049	5311	5129
5189	7860	5251	8050	5312	5130
5190	7861	5252	8046	5313	5131
5191	7862	5253	8051	5315	7396
5192	7863	5254	7988	5316	7397
5194	7875	5254a	7872	5317	7398
5195	7876	5255	7933	5318	7399
5196	7869	5256	7934	5319	7400
5197	7877	5257	7935	5320	7536
5198	7879	5258	7871	5321	7535
5200	7865	5259	7900	5321b	7537
5201	7902	5260	7920	5321c	7538
	8004	5261	8047	5321d	7539
5202	7894	5262	8052	5322a	7517
5203	7904	5263	7975		7520
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5205	7906	5265	7998	5322c	7518
5206	7897	5266	7978	5323	7624
5207	7883	5267	7948	5324	7625
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5332	7640	5378	7692	5416d	7318
5333	7641	5379	7693	5416e	7320
5334	7642	5380	7694	5416f	7322
5335	7643	5381	7696	5416g	7323
5336	7644	5382	7697	5416h	7327
5337	7645	5383	7698	5416j	7324
5338	7647	5384	7699	5416k	7326
5339	7646	5385	7700	5416l	7325
5340	7648	5386	7701	5416m	7317
5341	7649	5387	7702	5416n	7319
5342	7650	5388	7703	5416o	7321
5343	7651	5389	7704	5416p	7328
5344	7652	5390	7706	5426	8053
5345	7654	5390a	7209	5426a	8059
5346	7655		7212	5426b	8059
5347	7656	5391	7707	5427	8054
5348	7658	5392	7705	5428	8055
5350	7660	5393	7708	5429	8056
5351	7661	5394	7709	5430	8057
5352	7662	5395	7710	5431	6754
5353	7663	5396	7711	5432	6755
5354	7664	5397	7717	5433	6756
5355	7665	5398	7718	5434	6757
5356	7666	5399	7719	5435	6758
5357	7667	5400	7720	5436	6759
5358	7668	5401	7721	5437	6760
5359	7669	5402	7722	5438	6761
5360	7670		7725	5438a	6677
5361	7671	5403	7725	5439	8082
5362	7672	5404	7747	5440	8083
5363	7673	5405	7735	5441	8085
5364	7674	5406	7748	5442	8086
5365	7675	5407	7742	5443	8087
5366	7676	5408	7745	5444	8088
5367	7677	5409	7746	5445	8089
5368	7678	5410	7758	5446	8090
5369	7679	5411	7759	5447	8091
5370	7682	5412	7760	5448	8092
5371	7684	5413	7761	5449	8093
5372	7530	5414	7764	5450	8090
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- Officers of townships, Const. N. C., art. VII, § 5.
- Powers of General Assembly over municipal corporations, Const. N. C., art. VII, § 14.
- Taxes to be ad valorem, Const. N. C., art. VII, § 9.
- Townships have corporate powers, Const. N. C., art. VII, § 4.
- Trustees shall assess property, Const. N. C., art. VII, § 6.
- When officers enter on duty, Const. N. C., art. VII, §§ 9, 10.

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- Clerk of the Supreme Court, Const. N. C., art. IV, § 15.
- Courts shall be open, Const. N. C., art. I, § 35.
- Division of judicial powers, Const. N. C., art. IV, § 2.
- Election of superior court clerk, Const. N. C., art. IV, § 16.
- In case of waiver of trial by jury, Const. N. C., art. IV, § 13.
- Judicial districts for superior courts, Const. N. C., art. IV, § 10.
- Jurisdiction, Const. N. C., art. IV, §§ 8, 12.
- Officers of other courts inferior to supreme court, Const. N. C., art. IV, § 30.
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- Rotation in judicial districts, Const. N. C., art. IV, § 11.
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- Appeal, Const. N. C., art. I, § 13; art. IV, § 27.
- Misdemeanor, Const. N. C., art. I, § 13.
- Confronting accusers and witnesses, Const. N. C., art. I, § 11.
- Costs and jail fees, Const. N. C., art. I, § 11.
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- Involuntary servitude, Const. N. C., art. I, § 33.
- Nature of criminal actions, Const. N. C., art. IV, § 1.
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- Right to be informed of accusation, Const. N. C., art. I, § 11.
- Right to have counsel, Const. N. C., art. I, § 11.
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- Debts in aid of the rebellion not to be paid, Const. N. C., art. I, § 6; art. VII, § 13.
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- Department of agriculture, immigration and statistics, Const. N. C., art. III, § 17.
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- Education, Const. N. C., art. I, § 27; art. IX, §§ 1-13.
- Board of education, Const. N. C., art. IX, §§ 8-13.
- Children must attend school, Const. N. C., art. IX, § 15.
- Compulsory education, Const. N. C., art. IX, § 15.
- Counties to be divided into districts, Const. N. C., art. IX, § 3.
- County school fund, Const. N. C., art. IX, § 5.
- Education shall be encouraged, Const. N. C., art. IX, § 1.
- Expenses of board of education, Const. N. C., art. IX, § 13.
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- Property devoted to educational purposes, Const. N. C., art. IX, § 4.
- Quorum of board of education, Const. N. C., art. IX, § 12.
- Separation of races, Const. N. C., art. IX, § 2.
- Superintendent of public instruction, Const. N. C., art. III, §§ 1, 13, 14, 15.
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- Elections, Const. N. C., art. VI, §§ 1-9.
- Ability to read and write, Const. N. C., art. VI, § 4.
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Duties of governor, Const. N. C., art. III, § 5.

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- Qualifications for representatives, Const. N. C., art. II, § 8.
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- Readings, Const. N. C., art. II, § 23.
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- Time of assembling, Const. N. C., art. II, § 2.
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- Governor to make appointments, Const. N. C., art. XIV, § 5.
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- Power of impeaching, Const. N. C., art. IV, § 4.
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- Imprisonment for debt, Const. N. C., art. I, §§ 16, 17; art. XI, § 1.
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- Debts, Const. N. C., art. I, § 6; art. V, § 4; art. VII, § 13.
- Intermarriage of whites and negroes, prohibited, Const. N. C., art. XIV, § 8.
- Internal government of the state, Const. N. C., art. I, § 3.
- Involuntary servitude, Const. N. C., art. I, § 33.
- Judges, Const. N. C., art. IV, §§ 11, 21.
- By whom elected, Const. N. C., art. IV, § 21.
- Diminution of compensation, Const. N. C., art. IV, § 18.
- Election, Const. N. C., art. IV, § 21.
- Removal of judges of the various courts for inability, Const. N. C., art. IV, § 31.
- Residence of judges, rotation in judicial districts, and special terms, Const. N. C., art. IV, § 11.
- Terms of office, Const. N. C., art. IV, § 21.
- Judicial department, Const. N. C., art. IV, §§ 1-33.
- Judicial districts, Const. N. C., art. IV, § 10.
- Jurisdiction.
- Jurisdiction of courts inferior to Supreme Court, Const. N. C., art. IV, § 12.
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- Eligibility, Const. N. C., art. XIV, § 7.
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- Rebellion.
- Debts in aid of the rebellion not to be paid, Const. N. C., art. I, § 6; art. VII, § 13.
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 - Religious liberty, Const. N. C., art. I, § 26.
- Reports.
- From officers of executive department, Const. N. C., art. III, § 7.
- Representation and taxation, Const. N. C., art. I, § 23.
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- Right of the people to assemble together, Const. N. C., art. I, § 25.
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 - Liability of state for emancipation, Const. N. C., art. I, § 6.
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 - Convention of 1868, Const. N. C., art. I, § 6.
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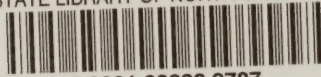
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